

TOGETHER WE WILL, *et al.*;  
NEIL THOMPSON, *et al.*; AND  
HARFORD COUNTY  
EDUCATION ASSOCIATION,  
*et al.*,

Appellants,

v.

HARFORD COUNTY  
BOARD OF EDUCATION,

Appellee.

BEFORE THE  
MARYLAND  
STATE BOARD  
OF EDUCATION

Opinion No. 25-45

## OPINION

### INTRODUCTION

The State Board received three appeals of the Harford County Board of Education (“local board”) decision to remove the graphic novel *Flamer* from Harford County Public Schools’ (“HCPS”) library media collection. The first appeal was filed by a local advocacy group, Together We Will – Harford County/Upper Chesapeake, and its president, DeLane Lewis. A second appeal was filed by Neil Thompson *et. al.*<sup>1</sup>, which sought to consolidate with the first appeal. A final third appeal was filed by the Harford County Education Association (“HCEA”) on behalf of itself and four of its members.<sup>2</sup> The local board responded to each of the appeals. Appellants responded, and the local board replied.

### FACTUAL BACKGROUND

During the 2024 legislative session, the Maryland General Assembly passed the Freedom to Read Act (“FRA”), codified at Md. Code, Educ. §4-142. This legislation requires the local school systems to develop and implement policies and procedures to review objections to school library media materials. It also establishes limitations on the reasons for which a local school system may remove materials. (R1. 24-26).<sup>3</sup>

In response to the FRA, HCPS adopted the Evaluation and Selection of School Library Materials Procedure (“Evaluation Procedure”) in May 2024. Section D of the procedure outlines the process by which an employee, parent, or student within the school system may file a

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<sup>1</sup> Appellants are Neil Thompson, DeLane Lewis, Leslie Thompson, and Tarsilla Thompson.

<sup>2</sup> The four HCEA members are Kaitlin Hurley, Jessice Jeffries, Corinne Mank, and Tracy Papinchock. These four members all serve as Library Media Specialists in HCPS, and Ms. Hurley serves on the Reconsideration Committee.

<sup>3</sup> “R1” refers to the record submitted in response to the Lewis and Thompson appeals.

reconsideration request for current school library materials. In short, reconsideration requests must be reviewed by a “Reconsideration Sub-committee,” which is composed of two parents, one community member, one teacher, one administrator, one librarian, two 8<sup>th</sup>-12<sup>th</sup> grade students, and one curriculum supervisor or specialist. The sub-committee members must read the entire work, read the reconsideration form, read copies of professionally prepared reviews and list of awards, and review the HCPS Evaluation Procedure before voting whether to retain, move the material to a different level, or remove the material altogether. A report of these actions are ultimately submitted the local Superintendent, who will render a decision within 30 working days of receipt of the report. This decision may be appealed to the local board President. (R1. 15-23).

On November 25, 2024, HCPS received a Request Form for Reconsideration of Library Materials from an HCPS parent (“petitioner”) asking that the semi-autobiographical novel *Flamer* by Mike Curato be removed from HCPS libraries. The petitioner stated that while they had not read the book in its entirety, they were concerned that the book did not “meet the values of the community...and plants seeds in the heads of children that not only are trying to find themselves but could also be experiencing mental health challenges.” The petitioner raised concerns that the book “does not reveal local resources that may be out there for those struggling with their identity.” The petitioner provided a link to a Fox News story on concerns raised by parents in Michigan about sexual content in the book. (R1. 12-14).

On March 24, 2025, HCPS convened the Reconsideration Sub-committee to review the request from petitioner. The nine members of the sub-committee reviewed professional literary reviews of the book and noted a 2021 literary award. The sub-committee assessed the content of the book, including scenes with partial nudity, use of profanity, exploration of sexual identity and homosexuality, instances of bullying, suicidal ideation, and masturbation. The sub-committee found there was no explicit nudity and the profanity was contextually appropriate. The sub-committee also considered the book’s literary and artistic merit and found that the graphic novel format would appeal to a wide range of readers, that its semi-autobiographical nature lent authenticity to the narrative, and provided a historical context for the treatment of LGBTQ+ individuals. The sub-committee ultimately found that the book aligns with HCPS community standards, including safe and caring environments, as well as district policies on equal protection and prohibiting discrimination. There was also a discussion of how the book aligned with themes in the current middle school health curriculum. (R1. 8-11, 47-49, 82-92).

The sub-committee held two votes. First, the sub-committee unanimously voted to keep the materials in HCPS high school libraries. Second, the sub-committee voted 8-1 to maintain the book’s availability in grades 6-8. They noted that the book would remain in high school libraries and combined middle school/high school libraries. (HCPS had previously removed the book from middle school libraries.) The sub-committee also discussed that HCPS parents/guardians retain the ability to ask that specific books are not made available to their student. (R1. 8-11, 47-49, 82-92).

On May 15, 2025, after reviewing the sub-committee report, the local Superintendent sent a letter to the petitioner thanking them for sharing their perspective but ultimately adopting the recommendation to retain *Flamer* in the secondary libraries. The Superintendent summarized his reasons, including literary and artistic merit, educational and community value, and

professional recognition. The letter also informed the petitioner that they may appeal to the local board president within 10 business days. (R1. 50-51).

On May 21, 2025, the petitioner filed an appeal with the local board president. The petitioner thanked the Reconsideration Sub-committee for their time and thought but disagreed with their conclusions. The petitioner stated they felt the content, such as sexual thoughts, suicidal ideation, and coarse language, was unsuitable for middle and high school students. The petitioner maintained these topics were more “appropriate for private discussions with counselors or trusted adults.” The petitioner also expressed concern with the current library system, which they felt did not provide adequate notice or content ratings for explicit content – undermining the role of parents. Petitioner stated they were concerned about “protecting students from content that may be emotionally overwhelming, triggering, or developmentally misaligned.” (R1. 5-7).

On May 23, 2025, the local board notified the petitioner and HCPS that it would convene a panel of local board members to deliberate the appeal. The letter requested the petitioner submit additional documentation by June 6, 2025. The Superintendent was required to submit a memorandum by June 23, 2025. (R1. 52).

On June 23, 2025, the Superintendent submitted a memorandum with accompanying exhibits in support of his decision. The memo argued that the petitioner failed to demonstrate that the decision to retain *Flamer* was arbitrary, unreasonable, or illegal. The Superintendent argued that under the First Amendment of the U.S. Constitution, a book cannot be removed to suppress ideas and must be considered as a whole when reviewing content. The Superintendent argued that the Reconsideration Sub-Committee considered the book as a whole and found multiple reasons why the book was valuable to the school community. The Superintendent also pointed out that the petitioner failed to provide any specific examples to support their concerns and relied on their personal opinion on these matters. (R1. 53-80).

On July 1, 2025, the local board informed the petitioner and Superintendent that it convened on June 26, 2025 to consider the submissions filed by the parties. In its decision, the local board applied the arbitrary, unreasonable, or illegal standard of review to its quasi-judicial review of the Superintendent’s decision to retain *Flamer* in the secondary school libraries. By a vote of 5-3, with one abstention, the local board voted to reverse the Superintendent’s decision. The local board found that “HCPS failed to critically evaluate the book of its age appropriateness, its extensive profanity, sexual situations and demeaning observations of females.” The local board stated that its decision “was predicated on the pervasive vulgarity and the novels’ absence of educational suitability.” The local board ordered *Flamer* removed from all HCPS libraries. (R1. 1-4).

The record is not clear on how the HCPS community was informed of the local board’s decision. The Thompson Appellants state they found out about the decision through “word-of-mouth” and after a Maryland Public Information Act (“MPIA”) request was fulfilled. (Thompson Appeal, pp. 3-4). The HCEA Appellants allege it only became aware of the local board’s decision on or around July 20, 2025, after learning of the July 17, 2025 MPIA response. (HCEA Response, p. 4).

On July 24, 2025, the HCEA president emailed the local board president and local Superintendent, requesting a reconsideration of the local board’s decision. She shared concerns that the local board met in “secret”, that the local board members did not read the book before the meeting, and that certain parents seemed to be arguing that books make kids gay. (HCEA, Ex. 4).

On July 25, 2025, the local board president responded that to his knowledge, “appeals in these matters are generally only initiated by the petitioner to higher levels of authority. However, in this case, according to the Harford County Public Schools Administrative Procedure for Reviewing and Reevaluating Instructional Materials, there appear to be no further appeals beyond the County Board of Education, as this is a local, district-level procedure.” The local board President stated that the decision was consistent with the Evaluation Procedure, but the local board would work with the administration to revise the Evaluation Procedure for greater clarity. (HCEA, Ex. 4).

These appeals followed.

### STANDARD OF REVIEW

Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered *prima facie* correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.06A.

### LEGAL ANALYSIS

Before addressing the substance of Appellants’ arguments, we must consider a preliminary matter. The local board filed motions to dismiss for each of the appeals on the basis that the State Board does not have jurisdiction as Appellants failed to docket an appeal with the local board, that Appellants do not have standing to file an appeal to this Board, and the HCEA appeal was untimely. We address these issues in turn.

#### *Jurisdiction*

Two parts of the Maryland Education Article establish the State Board’s quasi-judicial jurisdiction. They are Education Article §2-205 and §4-205. Section 2-205 provides the State Board with the power to determine the true intent and meaning of state education law and to decide all cases and controversies that arise under the State education statute and State Board rules and regulations. Under this authority, an appellant may file a direct appeal to the State Board without exhausting any lower administrative remedies. Conversely, §4-205 permits an individual or organization to appeal a local superintendent’s decision to the local board of education then file a subsequent appeal to the State Board of Education. In other words, §4-205 vests the State Board with “appellate jurisdiction” over local board decisions and requires an appellant to exhaust administrative remedies. *See Bd. of Educ. for Dorchester Cnty. v. Hubbard*, 305 Md. 774, 789 (1986), *Bd. of Educ. of Garrett County v. Lendo*, 295 Md. 55, 65-66 (1982).

The local board argues that the Appellants did not file an appeal of the local board's decision with the local board, therefore, their appeals are not properly before this Board. The local board argues:

“[Appellants] did not approach the local Board to docket an appeal of the decision pursuant to Section 4-205 of the Education Article. They should have noted an appeal. If the local Board had denied the appeal, the Appellants would be in a position of appealing that denial to the State Board.” (Thompson LB Reply, p. 4).

In our view, this argument is illogical for multiple reasons. The removal of *Flamer* from HCPS libraries has already been reviewed by the local Superintendent and local board through the §4-205 process, albeit initiated by a different individual. Given that the Superintendent and local board have already rendered their decisions on removal of the book, it is administratively inefficient to require these Appellants to repeat the process. Furthermore, there is nothing in State regulations that allow or require parties to file an appeal of a local board's final decision with the local board. The appropriate venue for an appeal of a local board decision is with the State Board.<sup>4</sup> Given the unique nature of the library media review cases, we must consider whether an individual can file an appeal of a local board decision if they did not participate in the local board proceedings

### *Standing*

In order to have standing to file an appeal to the State Board, one must have been a party to the lower administrative proceeding. However, as we explained in *Sartucci v. Montgomery County Bd. of Educ.*, MSBE Op. No. 10-31 (2010), administrative standing is more lenient than judicial standing. We summarized the administrative standing principles that apply to the local board:

The Court of Appeals has recognized that a “generalized interest” in an issue before an administrative agency is sufficient to establish standing before the agency. Under administrative law principles, “the format for proceedings before administrative agencies is intentionally designed to be informal so as to encourage citizen participation . . . [a]bsent a reasonable agency or other regulation providing for a more formal method of becoming a party, anyone clearly identifying himself to the agency for the record as having an interest in the outcome of the matter being considered by that agency, thereby becomes a party to the proceeding.” *Sugarloaf Citizens Association v. Department of Environment*, 344 Md. 271, 286-87 (1996). For example, testifying at a public hearing asserting a position; submitting one's name as a protestant; identifying oneself on the agency record as a

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<sup>4</sup> As we recognized in *Sartucci v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 10-31 (2010), n.1, the exhaustion requirement is not immutable and the State Board, with its broad powers, has the authority to determine when an exception to administrative exhaustion is appropriate. Arguably, in this case, there is no substantial remedy for the Appellants under the current Evaluation Procedure and local board appeal process.

party confers administrative standing and establishes a person as a party before the administrative agency. *Id.* at 287 (citing cases).

In *Sartucci*, we declined to find the appellant did not have standing when her ability to present her views to the local board was hampered by the local board's action. Similarly, we believe it would be "inherently unfair" to find the present Appellants have no standing when the local board's actions precluded them from participating in the proceedings. There is no evidence that the local board made the HCPS community aware that *Flamer* was under appeal. As such, there was no opportunity for the Appellants to intervene in the matter. While we recognize the local board's right to conduct its quasi-judicial functions in closed session, it does not absolve the local board of its responsibility to notify the HCPS community when it intends to consider a matter that impacts the interests of the school community.<sup>5</sup>

While we decline to limit Appellants' administrative standing on the basis they were not a party to the appeal at the administrative level, our analysis is not over. Administrative standing does not guarantee standing at further levels of review. We have held that the general rule on standing is that "for an individual to have standing... he must show some direct interest or 'injury in fact, economic or otherwise.'" *S.R. v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 20-18 (2020) quoting *Adams, et al. v. Montgomery Cnty. Bd. of Educ.*, 3 Op. MSBE 143, 149 (1983). This requires the individual to be personally and specifically affected in a way different from the public generally and is, therefore, aggrieved by the final decision of the administrative agency. See *Bryniarski v. Montgomery Cnty. Bd. of Educ.*, 247 Md. 137, 144 (1967); see also *Lockwood v. Howard Cnty. Bd. of Educ.*, MSBE OR No. 17-12 (2017).

The local board argues that none of the Appellants have any interest that is different from that of the general public. As it relates to Together We Will and its president, we concur the Appellants have failed to demonstrate any connection to HCPS outside of representing the local community generally. An individual's status as a member of the community is insufficient to convey standing by itself. *Lockwood v. Howard Cnty. Bd. of Educ.*; *Adams, et al. v. Montgomery Cnty. Bd. of Educ.*; *Sartucci v. Montgomery Cnty. Bd. of Educ.*, MSBE Op. No. 18-33 (2018). Similarly, the Thompson et al. Appellants also appear to simply be members of the community without a direct connection to HCPS. The exception is Ms. Leslie Thompson, who is the parent of two students enrolled in HCPS. We find Ms. Thompson clearly has a greater interest in decisions regarding HCPS library materials than the average community member, such that she has standing in the matter.

The local board also argues that neither the HCEA nor its four named members have standing as they do not have any continued interest in the library media decision. We disagree. The library media specialists are responsible for the HCPS library media collection. They assist in choosing materials for the libraries, and they may serve on the HCPS Reconsideration

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<sup>5</sup> This is an issue that is relatively unique to the school library materials cases. If there is no notice to the school community that a book is under review, and there is no opportunity for the school community to provide comment or intervene in an appeal, then only individuals who wish to see library materials removed will be able to appeal the local decision. This is fundamentally unfair and deprives parties with a vested interest of the ability to participate in the proceedings. This Board is considering regulations to govern local school systems' review and removal of school library media policies. Notice and an opportunity to identify oneself as having an interest in the outcome of the matter should be a part of these policies.

Committee. Furthermore, the HCPS Evaluation Procedure allows staff members to file requests for reconsideration of library materials. As such, we find that these four library media specialists have a direct interest in the local board decision, which establishes their standing. We also concur with the HCEA that as the exclusive bargaining representative for HCPS educators, it has a “direct interest in ensuring that its members can perform their professional duties in an environment governed by established, fair procedures.” (HCEA Response, p. 4). Therefore, we also find the HCEA has standing.

### *Timeliness*

COMAR 13A.01.05.02B(1) provides that an appeal to the State Board “shall be filed within 30 calendar days of the decision of the local board” and that the “30 days shall run from the later of the date of the order or the opinion reflecting the decision.” The local board argues that the HCEA appeal should be dismissed as it was filed more than 30 days after the July 1, 2025 local board decision. Time limitations are generally mandatory and will not be overlooked except in extraordinary circumstances such as fraud or lack of notice. *See Scott v. Board of Educ. of Prince George’s Cnty.*, 3 Ops. MSBE 139 (1983); COMAR 13A.01.05.04B(2)(“The State Board may not extend the time period for filing an appeal from the decision of the local board ... except in the case of fraud, lack of notice of the decision, or other extraordinary circumstances.”).

In a typical case, the Appellants would have been required to file their appeal to the State Board by July 31, 2025. However, as noted above, the HCPS community was not notified of the local board’s decision in this case. As such, it would be unfair to hold them to the 30-day timeline post the local board decision, but this does not provide Appellants with an unlimited window to file their appeal. We believe a reasonable approach to timeliness is to require Appellants to have filed their appeal within 30 days of the time when they knew or should have reasonably known about the local board’s decision. The HCEA stated in its appeal that it became aware of the local board’s decision on or around July 20, 2025. (HCEA Response, p. 4). Using this date, the HCEA Appellant’s appeal would be due to the State Board on August 19, 2025. We did not receive their appeal until August 22, 2025, and as such, we find the HCEA appeal untimely.

### *As-applied Challenge*

Having dismissed all Appellants except Ms. Thompson, we now turn to the substance of her arguments against the local board. Generally, Ms. Thompson’s arguments can be summarized as the following:

- The petitioner failed to meet their burden of proof in demonstrating the Superintendent’s decision was arbitrary, unreasonable, or illegal before the local board.
- The HCPS Reconsideration Sub-committee completed an extensive review of the book and made a thoughtful decision about its inclusion in the HCPS school library program; the local board failed to demonstrate that the Reconsideration Sub-committee’s process was flawed.

- The local board’s finding that *Flamer* is pervasively vulgar was flawed as the local board failed to read the book and only considered portions of the book, rather than the work as a whole.

The local board argues that its decision was not arbitrary, unreasonable, or illegal because it acted within its broad discretion to exercise its pedagogical authority to determine which materials will be made available in their schools, citing *Jessica B. v. Cecil Cnty. Bd. of Educ.*, MSBE, Order No. OR 24-13 (2024). They maintain the local board has “the power to remove or restrict the use of books and other instructional materials that are pervasively vulgar or profane. *Board of Educ. Island Trees Union Free Sch. District No. 26 v. Pico*, 457 U.S. 853, 871 (1982). *Jessica B., supra*.” (Thompson LB Reply, p. 5).

We do not dispute the local board’s ability to review objections to school library materials, but simply having the authority to review materials is not enough to sustain a finding that the decision was not arbitrary, unreasonable, or illegal. We must conduct a fact-intensive analysis of the record at hand.

In April 2024, the Maryland General Assembly, with the approval of the Governor, passed the Freedom to Read Act (“FRA”), codified at Md. Code., Educ. §4-142. (R1. 24-26). The FRA requires, in part, that each local school system “develop and implement a policy and procedures to review objections to materials in the school library media program.” §4-142(a). The FRA also creates State policy for the operation of school library media programs, which includes that “[m]aterials may not be excluded or removed from the catalogue of a school library media program because of partisan, ideological, or religious disapproval.” §4-142(a)(3).

Consistent with the FRA, in May 2024, HCPS adopted the Evaluation Procedure, outlined above. (R1. 15-23). In addition to detailing the Reconsideration Sub-committee process to review requests from the school community, the Evaluation Procedure includes extensive criteria for reviews of school library media, including: two favorable reviews recommending the materials for the age of students/patrons; an evaluation of the total worth of a book, its themes, conclusions and meaning for students; and a review of age appropriateness, profanity, non-sexual nudity, historical context of violence, humor deriving from bodily functions, humor at the expense of authority and/or religion, and discrimination. The Evaluation Procedure also includes a table that distinguishes “age appropriate” versus “not appropriate” content by grade level bands. (R1. 17-18).

Before convening the Reconsideration Sub-committee to review *Flamer*, the committee members underwent a training by HCPS legal counsel, which provided an informational legal briefing on review criteria and constitutional principles pertaining to the school library book review, including caselaw on “pervasively vulgar” materials. (Thompson Response, Ex. 8).<sup>6</sup> The record is replete with extensive notes taken by the Reconsideration Sub-committee reviewing

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<sup>6</sup> Appellants submit new evidence in the form of PowerPoint slides presented by HCPS counsel to the Reconsideration Sub-committee. The State Board may receive additional evidence if it is “material and that there were good reasons for the failure to offer the additional evidence in the proceedings before the local board.” COMAR 13A.01.05.04C. In this case, as the Appellant could not intervene in the proceedings before the local board, she was unable to share this evidence earlier. We find this evidence is relevant and does not prejudice the local board as it is a document to which they had access.

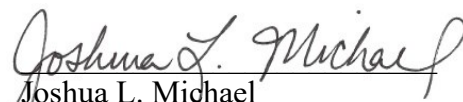
*Flamer*. Consistent with the Evaluation Procedure and training, the sub-committee considered professional reviews and grade level/age recommendations, instances of homophobic bullying, humor derived from sexual innuendo, profanity, and alignment with HCPS and community standards. (R1. 82-92). Ultimately, after completing a thoughtful review, the Reconsideration Sub-committee recommended that *Flamer* be retained in the secondary school libraries.

When the local board met on June 26, 2025, it deliberated on the record to determine whether the petitioner met their burden of proving the decision of the Superintendent was arbitrary, unreasonable, or illegal. (R1. 1). It ultimately voted to reverse the Superintendent. In its decision letter, the local board “found that HCPS failed to critically evaluate the book on its age appropriateness, its extensive profanity, sexual situations and demeaning observations of females.” (R1. 2.). The local board goes on to say its decision “was predicated on the pervasive vulgarity and the novels’ [sic] absence of educational suitability.” (R1. 3). Beyond these statements and a few paragraphs dedicated to the local board’s authority to determine what materials are available in schools, the local board provides no specifics on how the Reconsideration Sub-committee’s review was flawed or how the Superintendent’s decision was arbitrary, unreasonable, or illegal.

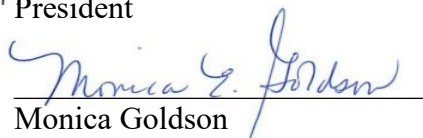
A decision may be arbitrary or unreasonable if it is contrary to sound educational policy or if a reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached. COMAR 13A.01.05.06B. In the case at hand, the local board has failed to provide any evidence that the Reconsideration Sub-committee and Superintendent did not conduct a thorough review of *Flamer* consistent with its own policies. Where the Reconsideration Sub-committee received training and took detailed notes on a book that all members were required to read in full, there is nothing in the record that indicates the local board members even read the book beyond some choice passages, which were not identified. Nor did the local board provide any evidence of how the Reconsideration Sub-committee’s review was inconsistent with the Evaluation Procedure. If no sufficient evidence supports a decision, we must conclude that no reasoning mind could have found as the local board. Thus, we find the local board’s decision to be arbitrary and unreasonable.

## CONCLUSION

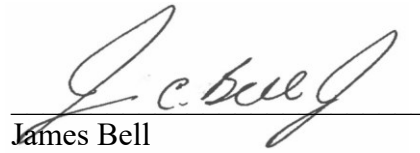
For the reasons stated above, we reverse the decision of the local board and find that the local Superintendent’s decision to retain *Flamer* in HCPS secondary school libraries stands. We also direct the local board and school system to revisit its Evaluation Procedures to ensure members of the HCPS community have notice and an opportunity to participate in appeals of decisions regarding objections to school library materials.



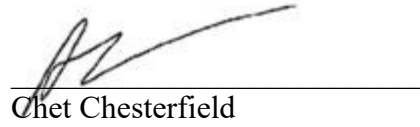
Joshua L. Michael  
President



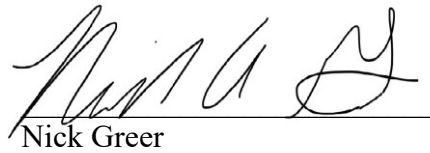
Monica Goldson  
Vice-President



James Bell



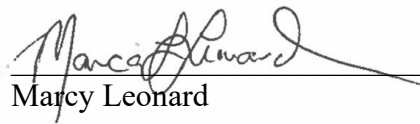
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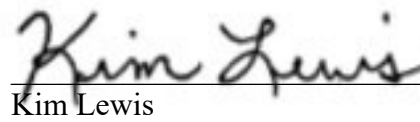
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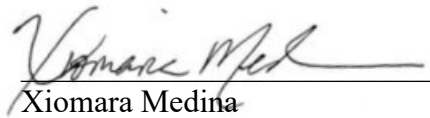
Irma Johnson



Marcy Leonard



Kim Lewis



Xiomara Medina

Absent:  
Chuen-Chin Bianca Chang  
Kenny Clash  
Samir Paul

November 4, 2025