

8/30/21

Attn:

Ms. Sherry Dorathy

Mr. Glen Lineberry

This letter is to inform Ms. Sherry Dorathy, Mr. Glen Lineberry and MUSD that I will be attending my son's senior football games held at Miami High School regardless of the "ban" recently imposed.

As you are likely aware, banning a parent from their child's public school infringes upon the parent's constitutional liberty interest in directing the education of their child. Although the State of Arizona *may* have authority to restrict school access to ensure a safe and productive environment, it may not so significantly prohibit an individual parent from normal school access without affording the parent a fundamentally fair opportunity to contest the State's asserted reasons for doing so. I still share joint legal decision making with the biological father and banning me from *all* school related events violates my fundamental right of a parent to make decisions concerning the care, custody, and control of my child. See *Troxel v. Granville*, [530 U.S. 57, 66, 120 S.Ct. 2054, 147 L.Ed.2d 49](#) (2000). The Supreme Court "recognizes on numerous occasions that the relationship between parent and child is constitutionally protected"); *Parham v. J. R.*, (1979)

At minimum, due process requires notice and an opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, [424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18](#) (1976). The Supreme Court has described the "root requirement of the Due Process Clause as being that an individual be given an opportunity for a hearing *before* he is deprived of any significant [liberty or] property interest." *Cleveland Bd. of Educ. v. Loudermill*, [470 U.S. 532, 542, 105 S.Ct. 1487, 84 L.Ed.2d 494](#) (1985).

The notice of this ban emailed to me on 8/25/21 at approximately 1545 **was intentionally delayed so I would not have sufficient time to "request permission to attend via email to the Principal and the Superintendent no later than noon two school days before the event."**

Therefore I was forced to miss one game. I have one piece of recorded evidence and one document signed by an attorney verifying that the district planned to ban me from all football games approximately one month before notifying me, yet I have never received any type of complaint from the Principal, Superintendent, any teachers, or MUSD staff. I have attended every open house, every meet the teacher, every sporting event, and several meetings with you both over the last 4 years and my conduct has never been in question. We have never raised our voices at each other. We have never had a heated argument. And neither of you, nor any student or staff member has ever felt intimidated or harassed by myself or my husband. Also, please note that I have asked Ms. Dorathy for the call to public form twice. On Thursday 8/26 via phone

(recorded) and on Friday 8/27 **via email** in which she responded asking for my email address. I still have not received this form.

This ban has been put in place as retaliation over the ongoing AZ DOE investigation that I filed in February against Mr. Lineberry. The relationship that Mr. Lineberry has formed with my son is improper and unprofessional and his continued misconduct warrants investigation. Perhaps my statements during this investigation have caused you discomfort, and may be the subject of disagreement, but that “does not justify governmental restriction or suppression based on those disagreements.” See *Tinker v. Des Moines Independent Community School Dist.*, [393 U.S. 503, 509, 89 S.Ct. 733, 21 L.Ed.2d 731](#) (1969) It has been “well-established that the government may not retaliate against individuals for exercising their rights under the First Amendment. See, e.g., *Dorsett v. Cty. of Nassau*, 732 F.3d 157, 160 (2d Cir. 2013); *Blue v. Koren*, 72 F.3d 1075, 1082 (2d Cir. 1995). The ban is a **blatant abuse of power**, is extreme and outrageous and was carried out for the specific purpose of inflicting extreme emotional distress, creating even more discord between a mother and her son, and harming my personal and professional reputation.

Moreover, MHS gymnasium, auditorium and Ragus Stadium are considered limited public forums. ‘In the specific context of retaliation by a school official restricting access to athletic events, we have said that where, a public school invites parents and other spectators to attend sporting events held in its gymnasium, the gymnasium operates as ‘a limited public forum’ and the school may restrict access to a limited public forum only when (1) ‘its restrictions are reasonable and viewpoint-neutral,’ or (2) ‘there is a clear and present danger of disruptions such as disorder, riot, obstruction of the event, or immediate threat to public safety.’ *Perry v. Johnson*, 859 F.3d at 175. Neither of those exist. If there were a ‘clear and present danger...’ surely, MHS would not have waited 4 weeks from the last ‘event’ that you claim I acted outrageously to email this ban. I also have a younger son attending MHS and if he chooses to play basketball this year, I will be in attendance.

Lastly, in anticipation of your forceful removal of myself and/or my husband from any sporting event, carefully review the above referenced legal matters. In multiple cases, the principal, athletic directors and even law enforcement officers were denied qualified immunity. In the absence of posing an immediate harm or violence; displaying weapons; threats of physical harm to police or members of the public, inciting violence or disorder. The Courts held that, in those circumstances, law enforcement officers who arrested the parents had no entitlement to qualified immunity.

I choose not to answer to any of the legal references because none of the A.R.S mentioned are applicable in this case. However, I cannot answer to the legal cross references because only two policies are on MUSD’s website and include the Employee Code of Excellence and the Use of Credit Cards/Procurement Cards.

Please note that I am sending this notice prior to speaking to my attorneys and do not waive any rights, knowingly or unknowingly.

Emails preserved for privacy purposes, but I do give permission for MUSD's legal team to contact my attorneys.

Sincerely,

Michelle Pettitt

Cc:

Ms. Sherry Dorathy (email)

Mr. Glen Lineberry (email)

Ms. Hope Kirsch & Yvette Ansel – attorneys (email)

Ms. Kerry Maloney and Ms. Wendy Hustad - AZ DOE Investigators (email)

ACLU