> any member of your family contacts him or accepts communication from him again, I will notify the Collier County Sheriff's Office and the State Attorney's Office immediately and without hesitation.
>
> Please confirm that you have received this email, or we will call you to ensure you have received this notice.
>
> David and Sabine Hull

(June 12, 2018, email from D. Hull to the Zuluagas).

Mr. Hull's close friend, Mr. Whitehead, decided to get involved, support Mr. Hull, and assist in the pattern of intimidation. So he took off his AP hat and put on his after hours former police detective hat and showed just how well-connected he was with the authorities. Apparently, he felt it would be fine to stir the pot and put a stakeholder family in fear. On June 12, 2018, late in the afternoon, he emailed Mr. Hull as follows:

> David, Thank you for advising me of this. Parents of children under the age of 18 yoa have the right of governance over all of their affairs. I have contacted the SOA and CCSO regarding this situation as you mentioned below regarding previous info and I will advise you asap as we move forward. False complaints to Public Safety Agencies and DCF are a 3rd degree felony in Florida. 18 yoa person are adults in Florida and subject to prosecution as adults. I will keep you posted on my interaction with the relevant entities.
>
> Joe Whitehead

The next evening, Mr. Whitehead decided to add fuel to the flames emailing Mr. Hull as follows:

> I spoke with a State Attorney today, who I have a long term professional relationship with, I was advised that you should save and forward all communications between D, V, and all members of that family to me. I will be the collection point that compiles these documentations for evidence as we move forward.
>
> D seems to have been the target of some outside the family influences that are damaging to his development as a responsible member of society.
>
> JW

In between these communications, Mr. Hull decided as well that he would email Ms. Zuluaga directly, without ever notifying her parents. That the preparers can whitewash this is incredible. Mr. Hull, who claimed he would never single out Ms. Zuluaga or target her, now

tried to use the email system, when no one was looking, to try to single her out and intimidate her. To make it look good, he signed the email as if from him and his wife. The email is hereby being produced in its entirety.

> Hello V,
>
> We wanted to make sure you are aware of this serious situation and write to ensure you have a full understanding of it. Under no circumstances are you to contact D in any way face-to-face, digitally, on the phone, through online media, or otherwise. Additionally, D is not to contact you in any way. If he does, you may and should email us immediately in order to alleviate yourself from any responsibility of his violation.
>
> You are 18 and legally and adult. D is 17 and legally a minor. As his parents, we have the right and duty to make this determination about the well being of our son. Enough damage has been done, and it is time for you both to recover from the devastating effects of your secretive and destructive actions. Too many people have been hurt for too long, and it is time for everyone to move on in their pursuits of happiness. We do wish you the best in your journey to college and beyond.
>
> We are willing to leave things as they are now, unless you or D decide to violate the mandate of this message. Otherwise, as D's parents, we will take appropriate and swift legal action. At this point, we consider this matter closed and will not communicate with you or your family anymore unless our demand is violated by any party involved.
>
> Please deeply consider the seriousness of this message, and refrain from contacting D in any way.
>
> -David and Sabine Hull

(Email sent June 12, 2018, at 8:19 in the evening).

At 8:00 p.m. on June 13, 2018, Mr. Hull tried again to intimidate Mr. and Mrs. Zuluaga. He wrote to them that "the reason for this response is to address the advice offered by the State Attorney and to let you know that I already have a substantial amount of such communications…I will continue to collect." Mr. Zuluaga did not take the bait. He wrote back at 9:21 that night (June 13, 2018), quite directly as follows:

> Please move forward with any actions that you consider appropriate on this matter, but you need to cease and desist the harassment and intimidation you are inflicting on our family or we will pursue our own legal actions.
>
> Thank you and have a great night.

The bully backed down and never contacted the Zuluagas again. Mr. Hull knew better. But with the assistance of his friend, Mr. Whitehead, he let his obsessions get the better of him. He gambled in his efforts to intimidate the Zuluagas and lost.

Incredibly, the preparers claim that because Mr. Hull and Mr. Whitehead were friends, and used their personal email addressess to carry out their actions against school parents, their actions did not violate MCA policies, and thus were acceptable. Aside from obviously not having read the Principles of Professional Conduct for the Education Profession of Florida, they have not carefully reviewed MCA policies. As previously noted, the Social Media policy (within Policy SE 25.0 Computers and Internet Vise Policy) provides that board members and organizational employees "are personally responsible for the content they publish on line". And "your online behavior should reflect the same standards of honesty, respect, and consideration that you use face-to-face." Then comes the following provision ignored by the preparers:

> The lines between public and private, personal and professional are blurred in the digital world. By virtue of identifying yourself as a organizational employee online, you are now connected to colleagues, students, parents and the school community. You should ensure that content associated with you is consistent with your work at Mason Classical Academy.

(Policies Manual, at 57).

Under MCA's Civility Policy (SE 48.0), previously noted, which pertains to staff, it is expressly provided that:

> All employees of Mason Classical Academy shall behave with civility, fairness and respect in dealing with fellow employees, students, parents, patrons, visitors, and anyone else having business with the school. Uncivil behaviors are prohibited. Uncivil behaviors shall be defined as any behavior that is physically or verbally threatening, either overtly or implicitly, as well as behaviors that are coercive, intimidating, violent, or harassing. (Id., at 79).

Finally, the policy provides: "Board Members, faculty and staff of Mason Classical Academy may not communicate with students on any social net working site including but not limited to...personal email..." Mr. Hull wrongfully contacted Ms. Zuluaga in violation of MCA policy and were he to try to say, for example, that she had just graduated and, therefore, was fair game, would make a mockery of the policy. (Id., at 60).

Mr. Hull and Mr. Whitehead violated multiple MCA policies, the Principles of Professional Conduct for the Education Profession in Florida, and MCA's Pillars by their actions. Their cruel and secretive behavior and actions were unbecoming professional educators and warranted discipline.

VIII. FERPA Violations and Related Issues

In the CR, the preparers have written that "the Fishbane Report alleged that Mr. Hull violated FERPA on five separate occasions when he sent confidential information without parental permission to persons who were not in the zone of interests of person who would otherwise have a legal access to the student's information." (CR, at 42). The preparers later examined the assertions in the GC's Report that involved not granting Mrs. Donalds the opportunity to review records pertaining to her children unless she paid for them first as if they were public records requests instead of FERPA requests. Accordingly, in the interest of completeness, the seven asserted violations will be addressed individually and in chronological order:

1. As noted in the GC's Report, on December 1, 2017, Mr. Hull emailed Dr. Sheryl Rogers, the District's Director of Charter Schools, about an MCA student. He identified the child's name, what grade he was then in, and his then current grades. He identified academic services he was receiving and his conflict with the parent over all of this. But then he sought to use Dr. Rogers for his own ends to assist him in his feud with the parent. He wrote to her as follows:

> The other reason I write is to request that you look into Jerome's situation at this prior school, Veteran's Memorial. I am not concerned about his behavior or academics, per say…What I am concerned about is his mother's behavior. Did she bully VME's personnel in the past? Did the VME principal have any issues with her? Is there something I should know about that family background situation that can help with our current situation? (December 1, 2017, email from D. Hull to S. Rogers sent at 1:20 p.m.).

To expect Dr. Rogers to gather personal and relationship information on the parent for him was inappropriate. This was ignored by the preparers.

2. Mr. Hull wrote to Dr. Rogers on January 10, 2018, to describe his view of the Donalds as parents and provided examples of the disciplinary record of the children. He tried to disguise who the parents were by not actually naming them but by describing them. As noted in the GC's Report, anyone could easily figure out who the parents were by reading the following: "One parenting issue I see is that of not being home very often. For example, the dad could be out of town for months at a time, only to come home on some weekends. He happens to be a Florida State legislator. The mom is also gone a lot as she is not only a member of a certain school board, but other boards and organizations." Referring to one of the children, Mr. Hull then proceeded to identify the child's disciplinary history with specificity. He also passed the following judgment on the parents: "Based on my knowledge and experience with this family, his poor behavior is due to the style of parenting his parents elect to enforce." He then added the following judgment: "I guess the child will be left home with a babysitter, which I do not feel is the proper consequences for a child misbehaving due to an absence of proper parenting and training." Mr. Hull then tried to use Dr. Rogers again when he notes that the father had called him from Tallahassee that morning: "Before I get back to him, I wanted to reach out and hear

your thoughts on the matter;" thoughts of course he planned to use for his own ends in his struggles with Mr. Donalds. All of this is also ignored by CR's preparers.

3. As noted in the GC's Report, on February 7 and 8, 2018, one of the Donalds' children was alleged to have been involved in incidents that Mr. Hull claimed warranted disciplinary suspension. Mr. Hull informed Mrs. Donalds on February 8, 2018, that there was a video that proved their child had engaged in wrongful conduct. At 9:33 a.m., Mrs. Donalds emailed Mr. Hull with the following request:

> I would like to request the videos you referred to this morning surrounding the incidents yesterday and today, from the time when students were allowed into the hallway through the incidents in question. You can show to me when I get to the school today or provide electronically.

Mr. Hull replied at 9:53 a.m. acknowledging receipt of the email, adding "this will take some time. Today will not work. I will let you know as soon as the next steps for your public records request have been determined." Her request as will be discussed, was not a public records request, but a request to see video that was alleged to be the foundation for suspension. It was thus a matter related to the child's academic file, governed by FERPA, and which the parent had a right to view.

Mrs. Donalds wrote back at 9:54 a.m. that she was actually at the school waiting in the front lobby and "would like to view the video before suspension is carried out." Mr. Hull kept her waiting in the lobby for some two and a half hours until he responded. He then wrote her at 12:27 p.m., both wrongfully under FERPA, and arrogantly, as follows:

> I write to confirm that you do not have an expectation of our staff processing your public records request for video footage of bathroom actions today and yesterday. You and I met at the school and discussed the issues in person today along with Mr. Whitehead, and that meeting satisfies your questions about the video footage and consequence rendered. Please confirm.

Mrs. Donalds disagreed and replied at 1:01 p.m. informing Mr. Hull that "unfortunately, due to the severity of the consequence, we still want to review the video with _____! Thank you for taking the time to process this request."

Mr. Hull replied at 1:53 p.m. informing Mrs. Donalds that it would not be ready until the following week and how much it would cost, and that she would have to pay the cost as if it were a public request, before she could see it. He then took it upon himself to lecture her that because he believed her child changed his stories, he should not be allowed to see it with his mother! The complete email reads as follows:

> I understand. It will be sometime next week when you can come in to watch the video. I will be in touch shortly about how much it will cost. Once you make payment, we will begin processing your request.

> On this note, I do feel the need to express my concern about you watching the video with _____. As you witnessed during our meeting today, _____'s stories changed multiple times for multiple people, including yourself. Showing him the video would not be positive or productive in holding him accountable for his actions.

At 4:18 p.m. that day, February 8, 2018, Mr. Hull sent Mrs. Donalds a cost breakdown sheet. At the top, instead of coding it an academic record, it was coded as "Donalds PRR." The cost was $294.62. Thus, Ms. Donalds would have to pay $294.62 before being allowed to see a video that she had right to see pursuant to the disciplinary suspension of her child.

4. On February 26, 2018, Mrs. Donalds and Ms. Van Vlyman, who oversaw MCA's ESE program, spoke and emailed each other about a recommendation for evaluation of one of her sons. They spoke about tracking charts, behaviors, and the evaluation. The next day, Mrs. Donalds emailed her requesting the tracking documents. Ms. Van Vlyman informed her that she would have to pay fees for their preparation.

Given her previous experience, on March 1, 2018, at 9:02 p.m,. Mrs. Donalds emailed Ms. Van Vlyman the following:

> To be clear, I am not making a public records request. I am asking to view copies of my own child's academic records file, including the behavior tracking sheets which you stated were part of the school's preparation for the evaluation. I have also been advised that teacher names are not to be redacted from these documents. Please send electronic copies or let me know when I can pick up paper copies from the school. Thank you.

Earlier in the day, Ms. Van Vlyman had emailed Mrs. Donalds that she was unable to provide advice as to her legal rights pertaining to the receipt of academic records and would have to get guidance from Mr. Hull (who was copied on the email accordingly). Mrs. Donalds never received a reply. Sometime thereafter, she withdrew her children from MCA.

5. On Wednesday, February 28, 2018, at 6:15 p.m., Mr. Hull forwarded Dr. Rogers a detailed set of emails between Mr. and Mrs. Donalds, one of their son's teachers, and Mr. Hull. Mr. Hull informed Dr. Rogers that his goal was to apprise her of an on-going behavior issue "we have been dealing with at MCA." In the exchange, Mr. Hull lectured (and judged) Mr. and Mrs. Donalds not only about their parenting, but also their child, their failure to pursue the truth, and their having deep hostility toward him personally which has had negative consequences for all. Mr. Hull wrote that their son had never apologized nor admitted his actions. He then continued in the following demeaning manner:

> That he has not speaks to your actions, or lack thereof, and to what you wrote below. He will never learn his lesson because you are so undermining towards the school. We are not asking for you to do anything harsh in terms of punishment. If you have been doing that, then it has obviously not

> worked. Something new should be tried. We are asking you to pursue truth, just like we ask everyone to do. Unfortunately, like [ ] you also continue to deny what he did in those bathrooms, admit truth, and apologize. That is where moving on begins. The ball, as I said, is in your court.
>
> You have many, many people telling you that something is seriously wrong in the behaviors of both your children, and that something desperately needs to change. Why would I even say that? Do you even stop to think how much easier it would be on me to ignore this whole thing? That you have such animosity over me and put so much blame on my back speaks volumes about your true desire to help that needed change happen.

6. Student of Virtue Award: As noted in the GC's Report, on May 11, 2018, subsequent to a faculty committee review and vote to present a twelfth grader the Student of Virtue award, Mr. Hull then questioned their decision-making by emailing them that they should have given the award to his son who he determined was a better more deserving student to receive it. He informed them that he really was not acting in the role of a father but as a Principal. He noted that "being the Principal requires me to honor my duty as such" by speaking up for his son.

But even more problematic, Mr. Hull included in the email a comparison of the awarded student's and his son's demerits, tardies, GPA, and so on and attached screen shots of their respective disciplinary histories involving demerits; and naming them by name. He then accused the faculty of the way they made their decision noting sarcastically: "I must have missed something about how you objectively measured the 12th grade Student of Virtue." (May 11, 2018, email from D. Hull to eleven faculty members, sent at 4:56 p.m.). He also sent this out again at 9:23 p.m., from his personal gmail account, including the screen shot, which the CR preparers did not mention

7. On August 30, 2018, Mr. Hull emailed District School Board Members scolding them for their involvement in an MCA parent-student matter. In it, he named the parent, the student and the academic issues involving the student. The parent had contacted District Board Members about concerns the parent had with an alleged response by "at least one of you," which gave the parent "false encouragement and perpetuates the anger at the situation." He then proceed to lecture the Board as follows:

> It is unfortunate that any CCPS board member would advise a parent in such a way without knowing any details beyond what that parent said. Do you know this student's class ranking? Days absent? Numbers of tardies? Behavior issues? Academic situation? Accommodations and modifications given? Prior year's performance? Did that parent tell you anything about the other side of the story that the school could have given?

Mr. Hull proceeded to tell the Board Members what he expected them to do in the future and how they should handle MCA matters that come to their attention. The condescending, arrogant,

and unprofessional nature of the communication is clear enough. One can only imaging the reaction of MCA Board Members if a District Principal or Curriculum and Instruction Administrator wrote to them in such a manner.

All of these seven items involved confidential student information. As we move into the application of the law to the facts, let's begin with Board Policy which was not included in the preparers' discussion of these issues in the CR. In Policy SE 25.0, the following is provided: "When contributing on line, do not post confidential student information." Accordingly, as a threshold matter, before even getting to FERPA, it is submitted that Mr. Hull once again violated MCA Policy.

The provisions of the Family Educational and Privacy Act (FERPA) are set forth in 20 USC 1232g and its regulations set forth in 34 CFR §99.1, et seq. The provisions of FERPA are also incorporated into Florida Law FS §1002.22 and 1002.221 and FAC 6A-1.0955. 20 USC 1232(g)(1) provides that an educational agency or institution is proscribed from releasing students' educational records or personally identifiable information ("PII") contained is such records "without the written consent of their parents to any individual, agency, or organization" other than the following:

> (A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required...

Under its Guidelines for Parents, the USDOE, through its Family Policy Compliance Office, has noted that a school official has such an interest only if the given official "needs to review an education record in order to fulfill his or her professional responsibility."

The requirement of parental (or an eligible student 18 years or older) written consent is also set forth in the statute's implanting regulations at 34 CFR §99.30(a). Such written consent must (1) specify the records that must be disclosed; (2) state the purpose of the disclosure; and (3) identify the party to whom the disclosure may be made to those school officials who the institution has determined to have a legitimate educational interest in such records (34 CFR §99.30(b)). The disclosure of a student's educational record must be to school officials who the institution has determined to have legitimate education interest in such records.

Records of disciplinary actions with respect to an infraction, or violation of internal rules, applicable to students of the agency or institution, are included within the ambit of educational records. Educational records are deemed to be those that are (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. (See, 34 CFR §99.3). Pursuant to 34 CFR §99.10, "a parent or eligible student must be given the opportunity to inspect and review the student's educational records." In addition, the school or institution must not only make arrangements for a parent who requests his/her child's educational records to inspect and review such records, it must also "respond to reasonable requests for explanations and investigations of the records."

With these provisions of law in mind, the preparers of the CR claim that Mr. Hull's actions with respect to items 1, 2, 5, 6, and 7 above were based on legitimate educational interests. Their claim cannot be sustained. While the preparers included the definition of legitimate educational interests in the CR, they nowhere apply it to the individual factual contexts under review. It is important to recall that the term is applicable "if the official needs to review an education record in order to fulfill his or her professional responsibility." Let's apply the definition to the specific items referenced above.

(a) The December 1, 2017, email from Mr. Hull to Dr. Rogers: In this email, Mr. Hull informed Dr. Rogers of the student's name, grade, course grades, problematic behavior, and his conflict with the parent. He also asked her to gather information from a District School Principal about the parent for his personal dispute (why was he afraid to do it on his own?). Thus, Mr. Hull used academic background information as a strategic ploy to use Dr. Rogers for his own ends. The child's academic record was not being used to help the child. And, as a third party, Dr. Rogers had no need of it. Mr. Hull knew he would never receive written authorization from the parent to release the information. It would mean, as noted in the 34 CFR §99.30, that it would include the disclosure of the purpose for the release. The only discernable purpose operative in this email is Mr. Hull's need to try to gain an advantage over the parent. There is nothing in the content of the email that Mr. Hull, as a school official, wanted or needed to review the child's educational record to fulfill his professional responsibility. Mr. Hull sought to use Dr. Rogers to get dirt on the parent in pursuit of his own ends.

(b) The January 10, 2018 email from Mr. Hull to Dr. Rogers: Mr. Hull used this email as an opportunity to denigrate the Donalds and their children, and use Dr. Rogers as a sounding board and an ally in his dispute with them. There was no legitimate educational interest in all of this, and certainly not one to fulfill his professional responsibility to help the children or the parents. Quite the contrary, he disclosed the disciplinary record of the Donalds' children as means to undermine Mr. and Mrs. Donalds as parents, and making gratuitous negative judgments about their parenting and why their children were misbehaving at school. Mr. Hull tried to use Dr. Rogers again to get her thoughts on the information he fed her before he called Mr. Donalds back. He knew that he would never receive written authorization from the Donalds to share all this with Dr. Rogers! There is simply nothing whatsoever in the email that demonstrated a concern by Mr. Hull with fulfilling his professional responsibility. Like the previous email, what is disclosed is his irresponsibility. There was nothing professional or responsible about his actions.

(c) The February 28, 2018, email from Mr. Hull to Dr. Rogers: This email is of piece with the just reviewed email of January 10, 2018. In it, Mr. Hull took it upon himself to forward a series of email communication between Mr. and Mrs. Donalds, Mr. Hull and one of their son's teachers. He informed Dr. Rogers that he wanted to apprise her of the son's on-going behavior problems at the school. The emails continued on from his judgments about the Donalds' parenting to his actual lecturing the Donalds about (a) their parenting; (b) their failure to pursue the truth; (c) their hostility toward him; and (d) the child's never having apologized to him for his actions and so on. This was not information that Mr. Hull needed to provide to carry out his job responsibilities, nor was it information that was appropriate to share with Dr. Rogers. The bottom line is Mr. Hull's purpose was to continue to keep her informed of his feud with the

Donalds to try to draw her in as an ally, and continue his efforts to try to denigrate Mr. and Mrs. Donalds in her eyes. None of this demonstrated a legitimate educational interest in helping either the child or his parents. And none of this demonstrated that he needed the child's record to fulfill his job responsibilities. He knew he would never be able to get written permission from the Donalds to share this with Dr. Rogers. Mr. Hull's actions did not come close to qualifying as a legitimate education interest under FERPA.

(d) Mr. Hull's May 11, 2018, communications concerning the Student of Virtue Award: Mr. Hull sent communications from his office email and his personal gmail address to the faculty committee members who recommended a senior for the Student of Virtue Award. Mr. Hull interjected himself because he was angry that they chose this student over his son whom he claimed was a better candidate for the award.

He thus proceeded, in violation of MCA policy and FERPA, to disseminate confidential student educational information involving two students' GPAs and disciplinary demerits to prove a point. He never contacted the awarded student's parents to request written authorization to release the student's information. He knew he would not get such permission because it would mean removing their son's award in favor of Mr. Hull's son because he decided to place his personal wants overs his professional responsibilities.

Mr. Hull posted the information as part of his effort to try to demean his own faculty committee for the decision that it made. But by posting students' GPAs and demerits, the effect and the purpose was to play their records off against each other which would have a shaming effect on both students. Imagine how the chosen student would feel when a Principal publicly states he is inferior to his son. And imagine how Mr. Hull's son would feel when his father puts him in such a position in relation to his peers shortly before graduation.

Mr. Hull's actions had nothing to do with carrying out his duties and responsibilities. Mr. Hull's posting student education records to show his contempt for his faculty, and their decision, is anything but an action demonstrating a legitimate education interest protectable under FERPA. Mr. Hull acted in a demeaning, condescending, and arbitrary manner. His actions were neither professional nor responsible.

(e) Mr. Hull's August 30, 2018, email to the District School Board: Mr. Hull took it upon himself to email the District School Board in connection with the way one Board Member allegedly responded to an MCA parent who had contacted Board Members about an educational problem she was having at MCA. In the email, he identified the child, the parent by name and the educational issues involved. He sent it without first notifying the parent or requesting written permission to do so and disclosed the information he decided to disclose. In the email, Mr. Hull lectured the Board on how he expected the Board to handle MCA and conduct themselves in the future. This scolding of the Sponsor's Board Members had nothing to do with any legitimate education interest that was necessary for Mr. Hull to carry out his professional responsibilities. It was all about Mr. Hull trying to demean District Board Members and scold them for alleged comments by one member to one of his parents, who once again, he was conflicting with. This email is not about carrying out his work. Mr. Hull abused his professional responsibility when he expected the District Board Members to kow tow to his authoritarian and condescending

demands. This is about far from a FERPA protectable interest as it gets. For the preparers to claim that Mr. Hull acted appropriately cannot be taken seriously and reflects once again that the claim to objectivity is a hollow one.

Before moving on to the violations pertaining to Ms. Donalds' requests for the educational records of her child, let's first have a look at the case of the School Board of Miami-Dade County v. Martinez-Oller, 167 So.3d 451 (3rd DCA, 2015), which the preparers cited in support of their position (CR, at 45). In the CR, they note that pursuant to this case, "the school is the determiner of the legitimate educational interest. Mr. Hull, as an agent of MCA, determined there was a legitimate interest in the email to the District.10 The firm finds that the action taken is not a FERPA violation."

But a review of the factual context of the case would show that the preparers' claim that the school is the determiner of the legitimate educational interest is drawn from the conclusion reached by the trial court. The appellate court overruled this conclusion. Let's look at the facts presented in the case and the appellate court's review and ruling. Martinez-Oller involved a student subject to several disciplinary suspensions. One of those, involved the student spontaneous throwing a textbook at a classmate which fractured his eye socket. The Plaintiffs asserted that he school principal and, therefore, the school board was negligent for not disseminating to the student's disciplinary record to the teacher. The trial judge agreed with the Plaintiffs and, noted the court, "fleetingly recognized a legitimate educational interest determination is an agency, not court, determination." (See, School Board of Miami-Dade v. Martinez-Oller, 167 So.3d 451, at 453). The appellate court reversed the verdict holding there was no legitimate education interest to disseminate the student's educational records and that the review was a matter of law. The act by the student was a random act that could not have been anticipated, even if the teacher had reviewed the student's past disciplinary infractions. The Court then challenged the logic of the trial judge as follows:

> Applying the logic of the trial court, the school principal would have had to disseminate Ericka's disciplinary reports to all of her classroom teachers—perhaps even to all of the teachers and employees in the school who might attain some degree of supervisory authority over Ericka during a school day or a school month—on the chance that she might again misbehave at some future time and on some future day within the premises of the high school. This rationale is antithetical to the raison d'etre for the federal and state student privacy laws, which exist to protect a student's right to privacy from the parties.

The Court held that the school's legal duty "was to properly supervise student activity, not to disseminate disciplinary reports." (Id., 167 So.3d 451, at 455).

The preparers misconstrued and misapplied the case to the April 30, 2018, email. Mr. Hull had no legitimate educational interest nor was the information to be disseminated necessary

10The case is cited in the context of the discussion of the August 30, 2018, email.

for him to carry out his professional responsibility to the MCA Board; just as he had no such interest in disseminating confidential student information to third parties in the factual contexts addressed in the other four emails reviewed. The Martinez-Oller case actually supports the findings and conclusions set forth in the District General Counsel's Report not those in the Coleman Report.

As we conclude this section on FERPA, let's review the remaining two matters involving requests by Mrs. Donalds to review her child's educational records on February 8 and February 26, 2018, respectively. The preparers insist she had to pay a fee before viewing or reviewing the requested records. (See, CR at 46). They once again ignored key provisions of federal regulations related to the matter as well as the letter ruling from USDOE set forth in the undersigned's report.

As noted, Ms. Donalds' request to view the video being used by the school to impose discipline upon her son. She was informed she would have to pay $294.62 before the video would be processed. Yet, the video was available, could have been put on a disc, or just stored for her to review at MCA with an administrator present. Ms. Donalds had the right to inspect and review the video pursuant to 34 CFR §99.10 and 34 CFR §99.12. The preparers ignored these provisions. In the Letter to Wachter, December 7, 2017, issued by the USDOE's Office of Management ("the Office") the office determined that providing access to the video pertaining to a student receiving discipline meant providing a requesting parent with "the opportunity to inspect and review the video" without paying the agency to be able to do so.

And Ms. Donalds had a right to inspect and review the documents she requested from Ms. Van Vlyman. To Ms. Van Vlyman's credit, she went to Mr. Hull to provide Ms. Donalds with guidance in addressing Ms. Donalds' questions. 34 CFR §99.11(c) provides that an educational agency, such as MCA, "shall respond to reasonable requests for explanations and interpretations of the records." Mr. Hull never responded nor ever worked out a way for her to see them before deciding whether she wanted copies. The preparers did not address 34 CFR §99.11(c) in their response. It is submitted that Mr. Hull and MCA violated Ms. Donalds' rights under FERPA in both instances.

After claiming Mr. Hull had not done anything inappropriate nor violated FERPA, they then add, rather contradictorily, that no actions is needed because "Mr. Hull has resigned. MCA administrators and staff have engaged in addition FERPA training," which would not have occurred absent the GC's Report which led to the Board approved Cure Document, and the Mediation Settlement Agreement. No matter how much the preparers might want to put their spin on the matter, there were serious FERPA issues created by Mr. Hull's arbitrary and demeaning actions and behaviors and everyone knew it.

IX. Final Areas Considered in the Coleman Report

In concluding their report, the preparers addressed a few final areas raised in the GC's Report. These will be reviewed in the order presented.