

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

CV
2018 09 2023
MARY L. SWAIN
BUTLER COUNTY
CLERK OF COURTS

ERIN GABBARD, individually and as parent of
Madison Local School District students W.G. and
G.G.

c/o Gupta Wessler PLLC
1148 Neil Ave.
Columbus, OH 43201

AIMEE ROBSON and DALLAS ROBSON,
individually and as parents of Madison Local
School District students K.P., N.R. and C.R.

c/o Gupta Wessler PLLC
1148 Neil Ave.
Columbus, OH 43201

BENJAMIN TOBEY, individually and as parent of
Madison Local School District students N.T. and
J.T.

c/o Gupta Wessler PLLC
1148 Neil Ave.
Columbus, OH 43201

BENJAMIN ADAMS, individually and as parent of
Madison Local School District students E.A., C.R.,
E.A., C.S., and C.S.

c/o Gupta Wessler PLLC
1148 Neil Ave.
Columbus, OH 43201

Plaintiffs,

v.

MADISON LOCAL SCHOOL DISTRICT
BOARD OF EDUCATION

c/o President David French
1324 Middletown Eaton Rd.
Middletown, OH 45042

LISA TUTTLE-HUFF, in her official capacity as
Superintendent of the Madison Local School
District,

1324 Middletown Eaton Rd.
Middletown, OH 45042

Defendants,

Case No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
PETITION FOR MANDAMUS

MARY L. SWAIN
CLERK OF COURTS

SEP 12 2018

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

THE STATE ex rel.

ERIN GABBARD
c/o Gupta Wessler PLLC
1148 Neil Ave.
Columbus, OH 43201

Relator,

v.

MADISON LOCAL SCHOOL DISTRICT
BOARD OF EDUCATION
c/o President David French
1324 Middletown Eaton Rd.
Middletown, OH 45042

LISA TUTTLE-HUFF, in her official capacity as
Superintendent of the Madison Local School
District,
1324 Middletown Eaton Rd.
Middletown, OH 45042

Respondents.

Plaintiffs ERIN GABBARD, AIMEE ROBSON, DALLAS ROBSON, BENJAMIN TOBEY, and BENJAMIN ADAMS, on behalf of themselves and their minor children, for their complaint for declaratory and injunctive relief, and relator ERIN GABBARD, for her petition for mandamus, by and through their counsel, against the above-captioned defendants-respondents, allege as follows:

INTRODUCTION

1. The plaintiffs bringing this lawsuit are parents with children in the Madison Local School District. Like all parents, they share the urgent desire to make Madison schools as safe as possible, and to protect their children from harm. However, a recent decision by the District's Board of Education undermines the safety of their children because it allows teachers, staff, and

other employees of the District to carry arms all day, every day at school, without the minimum training required by Ohio law. *See* R.C. 109.78(D). It is that training requirement that is at the heart of this lawsuit. And it is that lack of training that makes the parents bringing this lawsuit deeply concerned about the safety and well-being of their children when they drop them off at school or put them on the bus each day.

2. The plaintiffs understand that Ohio law authorizes school boards to decide whether or not to allow teachers and other school staff to go armed in school buildings. R.C. 2923.122(D)(1)(a). But Ohio law does not leave that discretion unbounded. Ohio law requires a school employee that goes “armed while on duty” to have first completed a “basic peace officer training” program or have twenty years’ experience serving as a peace officer. R.C. 109.78(D). That training is over 700 hours. And that makes sense: if employees are going to be carrying firearms in close proximity to children at school, the Ohio Legislature has mandated that they be well-trained.

3. In adopting the resolution at issue in this case, the School Board has taken a position in clear violation of Ohio law—that it may arm teachers, staff, and other employees without ensuring that they satisfy the minimum state law training requirement (other than the *de minimis* eight-hour training for any person authorized to carry a concealed weapon). Because it erroneously believes—contrary to the statute’s plain language—that R.C. 109.78(D) does not apply, the Board’s position is that it has *carte blanche* to impose whatever training requirement it wants, or none at all. And, in fact, the minutes from the relevant Board meetings and the Board’s other public communications state that the District will require only that its teachers and staff complete a 26-hour course that is not approved by the Ohio Peace Officer Training Commission. The plaintiffs do not agree that their state elected officials left their children at such peril, particularly since the Legislature has otherwise taken care to ensure that individuals carrying firearms in

schools are thoroughly trained. Accordingly, the plaintiffs seek a declaration that Ohio law requires basic peace officer training (or twenty years' experience) for any employee who is going to be armed at school—including teachers or other designated school staff—as well as an injunction prohibiting the arming of Madison teachers or staff unless and until that state mandate is followed.

4. Further aggravating the parents' concerns is the fact that the decision-making underlying the resolution and its implementing policies has been shrouded in secrecy. For this reason, relator Erin Gabbard seeks disclosure of public records that would reveal whether the Board has conducted due diligence and implemented protocols to minimize—to the extent possible—the risk of tragic accidents, mistakes, or misjudgments that could occur as a result of the Board's policy. Ms. Gabbard does not seek information that would compromise the security of the school; she is not asking the Court to order disclosure of the specific names of teachers and other staff who are carrying guns every day. Instead, she is asking for basic information, such as the general policies and procedures for implementing the policy to arm District staff, how designated persons are evaluated, the rules of engagement that will govern the use of deadly force, and under what conditions a person's authorization will be revoked. Parents have a constitutional right to direct the education of their children and to decide whether to send their children to a school with armed cafeteria workers, teachers, or other staff. *See Meyer v. Nebraska*, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042, (1923); *State v. Thompson*, No. 04CA30, 2006-Ohio-582, ¶ 30. Because she has been denied meaningful information critical to her decision-making process about the safety, well-being, and education of her children, Ms. Gabbard is now asking that this Court compel the Board to give her these public records. *See* R.C. 143.49.

5. This case is undoubtedly a highly-sensitive one: It was a little over two years ago that a gunman entered Madison's Junior/Senior High School and shot and injured two students.

The plaintiffs know that safeguarding students from such tragic situations is of utmost importance, as several of their children were present at the school that day. And they know that the Board, administrators, teachers, parents, and community members alike are trying to figure out the best ways to enhance school safety. But it is the very serious possible repercussions of bringing firearms onto school grounds that make it so important that any resolution to arm staff must be done in accordance with the law, with thorough and researched policies, and with full transparency to the parents who send their children to school every day. Therefore, the plaintiffs respectfully request that the Court grant their requested relief.

PARTIES

6. The plaintiffs are a group of parents with children in the Madison Local School District. They bring this action on behalf of themselves individually and on behalf of their minor children.

7. Plaintiff-Relator Erin Gabbard is a resident of Middletown, Ohio, with two children in Madison Local School District's elementary school. She and her family moved to Middletown eight years ago specifically because of the high-quality schools and low student-teacher ratios. Like many other families in the Madison school community, Ms. Gabbard, her husband, and her two children, W.G. (age 10) and G.G. (age 8), were devastated by the February 2016 shooting. Both of her children were at the elementary school that day, which is connected to the Junior/Senior High School by a hallway, and both went through the resulting lockdown and evacuation.

8. By deciding to allow teachers, administrators, or other staff to carry firearms with insufficient training, the Board has now introduced new risks that Ms. Gabbard's children must bear. Without the requisite training for teachers, and without access to the processes and policies governing the arming of teachers and staff in the District, Ms. Gabbard believes that Madison

students, including her children, are at increased risk for physical harm due to accidental discharges, mishandling of firearms, and improper use of force. Even well-trained officers miss their targets under stress, and Ms. Gabbard fears that her children could be the innocent bystanders tragically wounded (or worse) when insufficiently trained teachers attempt to help in a crisis (or perceived crisis). The increased risk of harm to her children gives her extreme distress and every day that she drops off her children at school she wonders if she has made the wrong choice.

9. Ms. Gabbard and her husband have considered withdrawing their children from Madison schools, and have explored alternative options. But they wish to keep their children in Madison schools—the main reason they moved to Middletown. And they will do so, but only if the armed teachers and staff receive the state-required training and only if Ms. Gabbard and her husband are satisfied that the Board has appropriate policies and procedures in place to minimize the risks of accidents, mistakes, misjudgments or overreactions by those being authorized to carry or access firearms.

10. Plaintiffs Aimee Robson and Dallas Robson are residents of Madison Township, Ohio, with four children in the Madison Local School District. K.P., age 15, is a student at the Madison Junior/Senior High School. She was in the school library on February 29, 2016, when a gunman entered the school's cafeteria and shot two students at lunch. N.R. and C.R., ages 11 and 8 respectively, attend Madison Elementary School and were also on campus on the day of the shooting. Aimee and Dallas Robson also plan to enroll their youngest child, H.R. (age 3), in Madison Elementary School.

11. Aimee and Dallas Robson both grew up in southwest Ohio and moved to Madison Township approximately 13 years ago, in part due to the good reputation of Madison's schools. Aimee and Dallas Robson particularly appreciate the community feel of the school,

including the friendliness of the teachers, administrators, and other parents. Mr. Robson coaches and officiates numerous community sports teams, including the baseball, wrestling, and soccer teams, and he enjoys the collegiality and friendliness of his colleagues. The Robsons were both raised in families of hunters and support people's individual decisions to lawfully carry concealed firearms for self-defense. However, they believe that extra care is necessary when guns are brought around children.

12. Aimee and Dallas Robson became aware of the resolution to arm teachers after it passed. They do not believe that the school community was made sufficiently aware of the plan to arm teachers. They worry that, despite best intentions, insufficiently-trained teachers carrying firearms will make mistakes. This "human error factor," combined with a lack of training, may also come into play if an armed teacher comes to school having a bad day, feeling sick or tired, or frustrated. Particularly for the high school, they worry that students may be able to overpower teachers in a confrontation. Even though the teachers will apparently be carrying their guns in a concealed manner, a student who knows what he or she is looking for can tell if a teacher is carrying. They are also disturbed by the fact that the school does not appear to have policies in places regulating what kind of firearms may be brought into the school. For example, it is not clear whether the school only permits guns with adequate safeties to prevent accidental shootings. The Robsons also worry that the policy of arming teachers with insufficient training will affect the trust between teachers and students, particularly in a school where students still flinch at loud noises because of trauma from the 2016 shooting.

13. Plaintiff Benjamin Tobey is the father of three children: N.T. (age 12), J.T. (age 9), and P.T. (age 4). His two older children attend District schools, and he and his wife plan to enroll their youngest child in kindergarten at Madison Elementary School next year. The Tobey family moved to Middletown from Indiana a year ago because of job opportunities, and in order to be

closer to family. Mr. Tobey's wife grew up in Butler County, is an alumna of Madison High School, and has numerous family members in the area. Mr. Tobey grew up in West Carrollton, Ohio, south of Dayton.

14. Although Mr. Tobey and his wife were both pleased with their older children's experience at Madison Elementary School last year, they are deeply troubled with the Board's decision to move ahead with arming teachers and school staff without requiring that such individuals have more extensive training. Mr. Tobey in particular is concerned about the risk that armed civilians without proper training could mishandle a firearm, have an accident, or use a gun inappropriately out of stress over work or personal issues. He is also troubled with the Board's failure to give parents a clear picture of their plan to arm school personnel, which makes it difficult to tell his own children about what to expect and to address their concerns about guns in their classrooms. However, Mr. Tobey supports the District's other efforts to secure the school, such as its use of armed SROs who are rigorously trained professionals who have chosen a career in law enforcement.

15. Plaintiff Benjamin Adams resides in Madison Township. He was born in the school district and attended school there. He has five children who are currently enrolled in Madison's schools. E.A. (age 17), C.R. (age 17), E.A. (age 15), and C.S. (age 13) attend Madison Junior/Senior High School. C.S. (age 8) attends Madison Elementary School. All of the children were on campus on the day of the 2016 shooting. Mr. Adams has fond memories of growing up in Madison Township and was excited to bring his wife and children into the District to enjoy the strong community in which he was raised.

16. Benjamin Adams is a parent, firefighter, and paramedic. On February 29, 2016, he responded to the school shooting at Madison Junior/Senior High School and treated some of the injured students before transferring care to the later-arriving EMS units. Mr. Adams'

Department has trained with local police on active shooter emergency response protocols, particularly in a school setting. With his experience during the 2016 Madison shooting, combined with his on-the-job training, Mr. Adams has a broad view of the subject. Mr. Adams fully understands the demands of functioning in a high stress environment, and he takes pride in his career and knows that his ability to succeed while under extreme stress is based on the demanding training that is involved in a public safety profession. To be qualified as a Level II Firefighter, Mr. Adams has completed 260 hours of fire training with an additional 1800 hours for paramedic certification. He also completes annual training that is required by his Department. Mr. Adams is particularly concerned that armed, insufficiently trained teachers would be asked to make life and death decisions that are beyond the scope of their training. This would also make it dangerous and difficult for first responders to enter the school building to administer life-saving care.

17. Defendant-Respondent Madison Local School District Board of Education is the governing body of the Madison Local School District, which is composed of two public schools, the Madison Elementary School and the Madison Junior/Senior High School. The Board is composed of five members, including Board President David French. The Board creates the policies governing the District.

18. Defendant-Respondent Dr. Lisa Tuttle-Huff is the Superintendent of the Madison Local School District. In that role, she acts as the director and highest-level manager of both Madison Elementary School and Madison Junior/Senior High School.

JURISDICTION AND VENUE

19. This Court has jurisdiction over this action under the Ohio Constitution art. IV, R.C. Chapter 2721, R.C. 2727.03, and R.C. 149.43(C)(1)(b). Venue is proper because Madison Local School District is located in Butler County.

FACTUAL ALLEGATIONS

I. The Statutory Scheme Governing the Arming of School Personnel

A. Ohio's Concealed Carry Requirement

20. Ohio law provides that a person may obtain a license to carry a concealed handgun upon application to his or her county sheriff and completion of an eight-hour training course. *See* R.C. 2923.125(G)(1). Of the eight-hour training, most of it can be completed online. Only two of the hours must be “in-person training that consists of range time and live-fire training.” *Id.* 2923.125(G)(1)(e).

B. Concealed Carry in Schools

21. Even with a concealed carry license, however, Ohio law broadly makes it illegal for anyone to carry a firearm in a school building. *See* R.C. 2923.122(B).

22. This general prohibition has several relevant exceptions. First, certain law enforcement and security officers are permitted to bring firearms into any part of a school safety zone,¹ including a school building. *Id.* 2923.122(D)(1). Specifically, the prohibition does not apply to:

- (a) a law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance, a security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment . . . ;
- (b) Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code, unless the appointing authority of the person has expressly specified that the exemption provided in division (D)(1)(b) of this section does not apply to the person.

Id.

23. Pursuant to sub-section (a), school resource officers, or SROs, who have com-

¹ “School safety zone” is defined as “a school, school building, school premises, school activity, and school bus.” *See* R.C. 2901.01(C)(1).

pleted peace officer (and usually other specialized) training, are allowed to carry firearms in school for the safety of students and teachers. *See id.* Consistent with this scheme, when schools across Ohio have decided to enhance the safety of their students and staff, some have done so by hiring duly trained SROs. The District employs two SROs that are on duty during most of the school day in both of the District’s schools.

24. Another exception to the prohibition on carrying guns in school buildings is for those authorized by a school board. R.C. 2923.122(D)(1)(a) permits:

“[a] person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization.”²

25. Importantly, the exemptions for persons allowed to carry guns in school buildings (listed in section (D)(1)) do not negate any otherwise-applicable training requirements. *See* R.C. 109.78(D); R.C. 3313.951 (effective Nov. 2, 2018).

26. Under Ohio law, individuals with only a concealed carry license cannot bring their weapon into a school building; they can only bring firearms into a school *safety zone* outside of the building (as long as particular safety precautions are taken, such as locking firearms in one’s vehicle). R.C. 2923.122(D)(3),(4). The General Assembly explicitly decided that individuals with only a concealed carry license cannot “enter into a school building or onto school premises . . . [or attend] a school activity” while armed. *Id.* The upshot: the Ohio legislature specifically rejected the idea that individuals with only concealed carry training should be able to bring firearms into a school building.

C. Ohio Revised Code 109.78(D)

27. The exceptions listed in R.C. 2923.122(D)(1) do not exist in a vacuum but are part

² R.C. 2923.122 does not address under what circumstances a firearm can be discharged in a school.

of a larger statutory scheme regulating the presence of firearms in Ohio schools. While R.C. 2923.122(D)(1) may give a school board discretion to authorize individuals to go armed in a school, it does not give the board unbounded discretion or the freedom to ignore otherwise-applicable statutory requirements. Under Ohio law, any individual employed by a school who is armed while on duty must have specified training. *See* R.C. 109.78(D).

28. Ohio Revised Code 109.78(D) provides:

“No public or private educational institution . . . shall employ a person as a special police officer, security guard, *or other position in which such person goes armed while on duty*, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed twenty years of active duty as a peace officer.” (emphasis added)

The requirements imposed by this provision are clear: any person in a “position in which such person goes armed while on duty” must have completed the basic peace officer training program, unless they have already served for twenty years as a peace officer.

29. This provision—by its plain language—is not limited to those hired specifically as security personnel. Though the statute mentions that “special police officer[s]” and “security guard[s]” must have such training, the requirement applies broadly, even to those whose roles are not primarily or solely security-focused. The peace officer training requirement applies to employees in “other” positions if that “person goes armed while on duty.” R.C. 109.78(D). And that is consistent with the overall statutory scheme. All the other exceptions to the general rule that it is illegal to carry guns in a school are for persons who have extensive training—like police officers and SROs.

30. Ohio School Board officials have previously reinforced this plain-text reading. For instance, as school districts in Ohio considered arming teachers following the tragedy at Sandy Hook Elementary School in Connecticut, Hollie Reedy, Chief Legal Counsel for the Ohio School Board Association, explained in 2013 that, given the language of R.C. 109.78, “a board

of education should not proceed with arming anyone in the district that does not have approved basic peace officer training program [sic] at this time.” (A true and accurate copy of the newspaper article quoting Ms. Reedy is attached as Ex. 1.)

31. The Edgewood Board of Education’s July 2013 Resolution No. 064-13, for example, requires that persons “authorized by the Board to carry a concealed firearm must . . . have a basic peace officer certification from the Ohio Peace Officer Training Academy or he or she must have 20 years of experience as a law enforcement officer.” (A true and accurate copy of the “Resolution Authorizing Certain Individuals To Carry Concealed Firearms on School Premises Pursuant to O.R.C. § 2923.122” is attached as Ex. 2.) However, upon information and belief, other school districts in Ohio have passed resolutions to arm teachers without the requisite training requirements.

32. When confronted with Reedy’s interpretation, the Buckeye Firearms Foundation, an organization that administers a three-day firearms training program called FASTER (Faculty/Administrator Safety Training & Emergency Response), immediately reached out to Attorney General DeWine’s Office for an official statement that R.C. 109.78(D)’s peace officer training requirement does not apply to armed teachers. The group explained that, if necessary, it would “go about changing the law to make it clear” that the training requirement in R.C. 109.78(D) does not apply to armed teachers. *Id.* (True and accurate emails reflecting these communications are attached as Ex. 3.)

33. Attorney General DeWine responded to the request with a non-binding, unofficial letter dated January 29, 2013. That letter was equivocal about how R.C. 109.78(D) would apply to armed teachers. Tellingly, the letter did not attempt to interpret the statute pursuant to the “plain reading” rule, instead diving directly into an analysis of purported legislative intent. In DeWine’s view, the training requirements in R.C. 109.78(D) do not apply to school employees

authorized by a school board, unless those employees would be considered “security personnel”—a term he placed in quotation marks even though it does not appear anywhere in R.C. 109.78(D). As he acknowledged, “how a school classifies a particular employee’s duties is a question that can only be answered by the local school district’s employment practices and policies.” *Id.* Therefore, he concluded that the General Assembly needed to act, stating: “I believe this subject requires legislative review and hope the General Assembly will address this issue.” *Id.* (A true and accurate copy of this letter is attached at Ex. 4.)

D. *The Rejection of House Bill 8*

34. The Buckeye Firearms Foundation took Attorney General DeWine’s advice, proceeding to work to change the law in the General Assembly with then-Speaker Rosenberger. (*See* Ex. 3, *supra.*)

35. In an obviously coordinated effort, the day after Attorney General DeWine issued his letter, House Bill 8 was introduced in the 130th General Assembly. That bill—had it been passed into law—would have exempted teachers, and other persons authorized by a school board to carry a concealed handgun at school, from the peace-officer training requirement of R.C. 109.78(D). Specifically, House Bill 8 would have amended R.C. 109.78(D) to add the following language: “This division does not apply to a person authorized to carry a concealed handgun under a school safety plan adopted pursuant to section 3313.536 of the Revised Code.” 2013–14 Am.Sub.H.B. No. 8, Section 109.78 (as passed by the House). As the Legislative Service Commission reported: “The bill also establishes an exception to the prohibition against any public or private ‘educational institution’ . . . employing a person to carry a weapon while on duty if that person has not received a certificate in basic peace officer training or has not completed 20 years of active duty as a peace officer. The bill’s exception applies to any person authorized to carry a concealed handgun under a school safety plan.” Ohio Leg. Serv. Comm., Bill Analysis: Sub.H.B.

8 (LSC 130 0381-2), 2–3.

36. Though House Bill 8 passed the Ohio House, it failed in the Senate, and never reached the Governor’s desk. Accordingly, Ohio law does not provide an exemption to R.C. 109.78(D)’s peace-officer training requirement for “person[s] authorized to carry a concealed handgun” under a school district’s policy.

E. *The Passage of House Bill 318*

37. Given the opportunity to do so, the General Assembly refused to eliminate the training requirement necessary for teachers and other staff to carry guns in schools, and it has now *increased* the training requirement for school resource officers. House Bill 318, which was signed into law on August 6, 2018, recognizes the unique difficulties of providing security in a school setting and requires each school resource officer to complete at least forty extra hours of specialized training for working in a school environment. These additional forty hours of training cover “[t]he nuances of law enforcement functions inside a school environment,” including “developmentally appropriate interview, interrogation, de-escalation, and behavior management strategies.” R.C. 3313.951(B)(3)(c). These forty hours are in addition to the basic peace officer training that is already required. (Any existing SRO is “grandfathered” in and does not have to complete this new training.) *See* Ohio Leg. Serv. Comm., Bill Analysis: Sub.H.B. 318 (as reported by S. Finance).

38. This additional requirement does not leave school systems without the resources to meet it. When it passed House Bill 318, the General Assembly provided over \$12 million in grants for school resource officer training and other programs to increase school safety, such as staff training to identify and assist students with mental health issues. *Id.*

39. It would be incongruous for the General Assembly to have been so concerned about the training for school resource officers with House Bill 318, yet to allow school boards to

arm teachers, coaches, support staff, and other school employees with only the basic eight hours of concealed carry training. Ohio law even requires 1800 hours of training to become a licensed barber, R.C. 4709.07(B)(4), 750 hours of training to become a licensed massage therapist, Ohio Adm.Code 4731-1-16(A)(1)(b), and 200 hours of training to be a licensed nail technician (plus eight additional hours if the technician is going to use an electric file), *200 Hour Manicuring Curriculum* (Jul. 9, 2014), <https://bit.ly/2MiQPGZ>. Yet, under the Board’s view, Ohio law does not require persons who carry guns on duty while at school with young children to have any special training at all.

II. The District Authorizes Arming Teachers Without the Requisite Training

A. *The Resolution to Arm Teachers and Staff*

40. On April 24, 2018, the District’s Board of Education adopted the “Resolution to allow armed staff in school safety zone.” In violation of R.C. 109.78(D), it allows the Board to authorize teachers and others to carry firearms in school without the requisite peace officer training. (A true and accurate copy of the Resolution is attached as Ex. 5.)

41. The Resolution’s preamble states that the Board adopted the measure because “the safety of their students is paramount” and the “ability of teachers, school support staff, administrators, and others approved; [sic] to be prepared and equipped to defend and to protect our students is essential in creating and preserving a proper learning environment.” *Id.* In short, the stated goal of the resolution is to provide additional security for the students.

42. The Resolution states:

“The Madison Local School District, Board of Education, pursuant to Ohio Revised Code Section 2923.122(D) (1) (a), hereby provides written authorization to certain person(s) designated by the Superintendent in writing to convey deadly weapons or dangerous ordnance into a school safety zone, or to possess a deadly weapon or dangerous ordnance in a school safety zone of the Madison Local School District School District, for the welfare and safety of the Students.” *Id.*

43. Accordingly, the Resolution authorizes “teachers, school support staff, administrators, and others approved” to carry firearms on the District’s campuses if they (i) are permitted under state law to carry a concealed handgun; (ii) have undergone active shooter training and received annual re-certification; and (iii) have been designated by the Superintendent. *Id.*

44. To implement the Resolution, the Board also adopted changes to its “NEOLA” policies to permit certain approved employees to possess, store, or use weapons on the school’s campus. (A true and accurate copy of the 8/13/2018 Board Meeting Agenda is attached as Ex. 6.) At the same meeting, the Board approved policy changes to its Emergency Management Plan and took action in a confidential executive session. *Id.* The Board has refused to disclose these policy changes or confirm whether it has authorized any persons to carry a concealed weapon in school pursuant to the Resolution. (A true and accurate copy of the Board’s 8/15/18 letter refusing to confirm whether it had armed any staff is attached as Ex. 7.)

45. As far as the scant documents disclosed by the Board reveal, the process that led to its adoption of the Resolution and undisclosed implementing policies began with an email from Board Member Paul Jennewine in February 2018, suggesting that the Board discuss adopting the “FASTER” program in Madison. (A true and accurate copy of such emails are attached as Ex. 8.) Although the Board states that it consulted with several individuals before adopting the Resolution, it has refused to produce documents evidencing such communications or research.

B. Training Programs

46. To satisfy the “response to active shooter training” referenced in the Resolution, the Board requires teachers and other personnel to complete the “Level 1” FASTER training. That training, as described by the Board, “consists of a 26-hour program focused on armed response, crisis management, and medical aid.” (A true and exact copy of the Board’s 4/25/2018

press release announcing the use of the FASTER Program is attached as Ex. 9.)

47. Upon information and belief, the FASTER Program is not an approved basic peace officer training program.

48. The Ohio Peace Officer Training Commission (OPOTC) sets the rules and approves the programs for certified peace officer training. *See* R.C. 109.73; R.C. 109.78. For example, the Commission drafts the rules regarding the “approval, or revocation of approval, of peace officer training schools administered by the state, counties, [and other state subdivisions],” the “[m]inimum courses of study, attendance requirements, and equipment and facilities to be required” at such schools, and the “[m]inimum qualifications for instructors.” R.C. 109.73(A). The FASTER Program is not listed on the OPOTC’s website as an approved basic peace officer training program. OPOTC, *Directory of Peace Officer Basic Training Academies*, <https://bit.ly/2x538RU>.

49. The Ohio basic peace officer training program curriculum requires a minimum of 728 hours. That curriculum spans firearm use, subject control, human relations, and physical conditioning, among other topics. *See* Ohio Adm.Code 109:2-1-16. Peace officer training focuses on practicing, utilizing, and internalizing various skills that will be critical to draw upon in high-stress situations in the field. (A true and accurate copy of the basic peace officer training audit form is attached as Ex. 10.) While the Board may not think that every aspect of peace officer training is relevant to carrying a firearm in a school setting, it may not unilaterally ignore state law.

50. The FASTER training does not provide the same level of training as a basic peace officer training program. The comparison of the required hours alone (728 hours vs. 26 hours) demonstrates the vast difference in the training.

51. Although the FASTER Program advertises on its website that the training is free,

Board Members were informed at the March 26, 2018 Board meeting that the FASTER training program now costs approximately \$1000 per person, including the training, accommodations, and equipment. (A true and accurate copy of the 3/26/18 Board Meeting Simple and Detailed Agenda and Minutes are attached as Ex. 11.)

52. The FASTER Program has invited and allowed several different media platforms to observe, photograph, and film its training program, including Spectrum TV, the BBC, and Mother Jones. Upon information and belief, the FASTER Program does not require the reporters, photographers, or film crews to sign any agreement to maintain the confidentiality of persons they observe receiving the training, nor do the FASTER instructors even ask the reporters to keep the identities of the participants confidential.

53. Reporters have observed teachers and staff from the District participating in the FASTER training this summer. The reporters disclosed the identities of teachers and staff whom they observed doing the FASTER training to parents and other persons they spoke with in the course of their reporting.

54. The plaintiffs in this lawsuit, parents of students in Madison schools, genuinely fear that their children could experience a tragic accident or misstep due to teachers or staff members' inadequate training. Such accidents or missteps could occur from, among other things, accidental discharge of the firearm, unauthorized access to the weapon, improper threat assessment, use of excessive force, or confusion by trained law enforcement arriving at the scene of an incident. Those with less training are also more likely to accidentally shoot innocent bystanders in a high-stress situation.

55. Given that the 2016 tragedy at Madison Junior/Senior High School is still fresh in the minds of teachers, the parents are particularly concerned that armed teachers and staff will unreasonably resort to deadly force based on past trauma, fears, and mistaken perceptions.

III. The District Refuses to Give Parents Public Records That Would Not Compromise the Security of the School.

A. *The School Board's Refusal to Answer Parent Questions*

56. Before and after the Resolution passed, the plaintiffs have struggled to obtain information necessary for them to evaluate the policy, its implementation, and whether it is safe for their children to continue to attend Madison schools.

57. The policy was first discussed at a Board meeting on March 26, 2018. However, the agenda for the meeting did not announce that the board was considering arming teachers. Instead, it contained a vague reference, stating: “New Business – FASTER Program.” The detailed agenda simply stated that there would be a “Discussion about FASTER, a nonprofit program that gives educators practical violence response training. FASTER stands for Faculty/Administrator Safety Training & Emergency Response.” (Ex. 11, *supra*.)

58. The Resolution passed at the next Board meeting, without opportunity for any parent input. Upon learning that the Board had adopted the Resolution on April 24, 2018, the plaintiffs and other concerned parents began to ask questions and request documents regarding the District’s policy. Erin Gabbard and other concerned parents wanted to know why the District decided that arming teachers was the best way to keep their children safe at school; what research they reviewed; which experts they consulted; and what factors they weighed. And, if the District was going to arm teachers and other staff, the parents wanted to know what policies were in place to prevent—to the extent possible—tragic accidents, misjudgments, and errors.

59. Like all parents, the plaintiffs are deeply concerned about the safety of their children at school. But without basic information from the Board regarding its process for deciding that arming teachers was the best course for school safety, they cannot evaluate whether the Board Members did their due diligence and were effectively representing them in elected office.

Moreover, without knowing about basic safeguards that would protect their children from gun-related accidents or missteps, the plaintiffs are particularly concerned that their children are at more risk of harm now at school than before the Resolution was adopted. And without clarity as to when and according to what standards any armed school personnel will use their weapons, the plaintiffs and other concerned parents cannot feel assured that their children are safe.

60. Searching for answers, Erin Gabbard sent a letter with a public records request to the Board on April 26, 2018. In that letter, she asked myriad questions, including: (1) what research the Board consulted in adopting the Resolution; (2) whether the Board vetted the FASTER Program with parties that have no financial interest in that program; (3) what process would govern the selection of teachers or other volunteers to be armed, including whether there was a psychological exam; (4) what types of weapons would the teachers or volunteers be carrying; (5) where the guns are kept and how the Board would ensure that an unauthorized person cannot get them; (6) if there was any way for parents to be notified when the policy went into effect. (A true and accurate copy of her 4/26/2018 letter is attached as Ex. 12.)

61. Not hearing any response, Erin Gabbard forwarded this letter via email again to all School Board Members on June 19, 2018. (A true and accurate copy of her 6/19/2018 email is attached as Ex. 13.)

62. The School Board never responded directly to Erin Gabbard.

63. Erin Gabbard and other parents began showing up to School Board meetings to express their concern with the Resolution, and to continue to ask questions. Specifically, Ms. Gabbard and the other concerned parents attended and asked these questions at School Board meetings on May 22, June 20, July 13, and August 13, 2013. The School Board refused to answer any questions at these meetings.

B. *The July 9th Public Records Request*

64. On behalf of Ms. Gabbard, and several other parents and grandparents of children in Madison schools, the undersigned attorneys sent a letter to the defendants on July 9, 2018. The letter detailed the legal and safety concerns with the Board's decision to authorize designated teachers and other volunteers to go armed while on duty without the requisite peace officer training specified in R.C. 109.78(D). The letter also raised the parents' concern with the Board's lack of transparency when it came to the presence of guns in school and the safety of their children. The letter expressed that having such information was necessary for them to make critical decisions about the education of their children. (A true and accurate copy of the 7/9/18 letter is attached as Ex. 14.)

65. The July 9 Letter made the following public records requests:

- a. That the Board "make public and produce beforehand all policies and procedures, if any exist, that have been developed, or are currently being developed, for implementation of the Resolution, including, but not limited to (i) the rules of engagement for armed staff; (ii) the policies for safe storage of firearms; (iii) standards for withdrawing written authorization if an armed employee has acted improperly with the firearm or otherwise becomes disqualified from carrying a gun; (iv) guidelines for keeping parents informed on implementation of the Resolution; and (v) options for parents to withdraw their children from classrooms with armed teachers, or for students to opt out of such classrooms."
- b. That the Board disclose its plan to arm staff, including any documentation that the FASTER Program is an approved basic peace officer training program.
- c. That the Board "make public and produce all documents reflecting communications with any representatives of the Utica National Insurance Group, or any other insurance provider, pertaining to continuing insurance coverage after implementation of the Resolution."

66. Several days after receiving this letter, the Board held an emergency "Special Meeting" on July 13, 2018, to hear from parents and other community members. However, Board President David French announced at the outset of the meeting that the Board would not answer any questions that parents or other community members might ask at the meeting.

C. *The Board's First Response*

67. On July 23, 2018, the Board responded to the July 9th public records request. The Board refused to provide any of the documents that Ms. Gabbard and other parents requested, except for those involving the District’s insurance. In its response, the Board claimed that all of the parents’ requests regarding the policies for arming teachers in Madison schools were not public records, including (a) the rules of engagement for armed staff; (b) the policies for safe storage of firearms; (c) the standards for withdrawing written authorization if an armed employee has acted improperly with the firearm or otherwise becomes disqualified from carrying a gun; (d) guidelines for keeping parents informed on implementation of the Resolution; and (e) options for parents to withdraw their students from classrooms with armed teachers, or for students to opt out of such classrooms. (A true and accurate copy of the Board’s 7/23/2018 response is attached as Ex. 15.)

68. For each of those policies, the Board repeated the same response:

This record is a security record, pursuant to Ohio Revised Code 149.433 (exemption “[a]ny record that contains information directly used for protecting or maintaining the security of a public office against attack[’]”); and Ohio Rev. Code 3313.536(I)(“Copies of the emergency management plan [and protocol for addressing serious threats to the safety of property] . . . are security records and are not public records pursuant to section 149.433 of the Revised Code.”).

Id.

69. By this response, the Board indicated that such documents exist. If—at the time of the request and response—there is no responsive document, Ohio law requires that the public agency (i.e., the District) state that there are no responsive documents. *See* R.C. 149.43(B)(3).

70. The Board did provide some records containing the Board’s communications pertaining to insurance coverage for armed teachers. Those documents show that the District’s insurance broker, Tom McGilly, informed the Board’s treasurer that the District would need to buy a separate insurance policy, and that the “minimum premium is around \$3750” for three

armed employees. *Id.* The separate policy that Mr. McGilly provided the District is for “Law Enforcement Liability Coverage.” It provides insurance for damages arising out of “law enforcement activities” and for negligence in “conducting law enforcement activities” that result in personal injury or property damage. (True and accurate copies of the insurance information provided by the Board are attached at Ex. 16.)

71. On or about July 28, 2018, the Board sent a letter to all District parents, referred to as the “Board Letter to the Community,” and posted it on its Facebook page and website. Its stated purpose was to “provide more detailed information to the community about the policy Madison School Board is considering which would allow some faculty and staff to carry concealed firearms on school property.” In its letter, the Board expressed that it “cannot go into the specific details regarding the proposed firearms authorization policy,” because secrecy was necessary “to keep students safe.” But, it stated, it “wants to be as transparent as possible regarding this policy.” (A true and accurate copy of the 7/28/2018 letter is attached as Ex. 17.)

72. The letter first addressed “[r]esearch regarding concealed carry of firearms in schools.” It stated that the “Board has been working on this policy for several months,” and had “conducted significant due diligence in preparation of its policy.” It detailed some of that research, but provided no citations. It stated that it looked at data from 6 years of Ohio districts allowing concealed carry. And it referenced a CNN report that focused on “Utah’s accidental, or inappropriate discharge or use of a firearm by a teacher or staff,” which identified only one incident. It also stated that other (unspecified) “instances of issues with staff and guns in school” were “almost exclusively” in schools that did not have a firearm authorization policy. *Id.*

73. The letter next addressed the “protocol for approving a faculty or staff member” to carry a firearm in Madison Schools. The Board described the process in broad strokes, including: a committee that would interview an applicant; verification of his or her concealed

carry permit; a mental health evaluation by an unspecified person or group; completion of unspecified training; unspecified annual re-training; and unspecified measures for revoking one's authorization. *Id.*

74. The “Board Letter to the Community” belies the defendants’ assertion that total secrecy is necessary for security purposes. There is no security justification—and the Board has not even attempted to provide one—for keeping basic policies confidential, such as the standards for vetting personnel, the requisite training requirements, the types of conduct that would cause one to lose his or her authorization, and the rules of engagement. Such policies are routinely made public by law enforcement agencies tasked with protecting schools.

75. Similarly, the FASTER Program’s apparent openness about which Madison teachers and staff are participating in the program undercuts the District’s assertion that it must keep the identities of all persons who may be carrying firearms in the school confidential. If that confidentiality were such a concern, the Board would require FASTER to keep the identities of Madison personnel in the program secret. Apparently, it has not.

D. *The August 7th Public Records Request*

76. On August 7, 2018, the undersigned attorneys, on behalf of Erin Gabbard, responded to the Board’s July 23 letter. As the summer began to wind down, Ms. Gabbard and other parents were concerned to learn that the Board was in its process of implementing its Resolution.

77. Accordingly, the August 7th letter first asked that the Board confirm whether it intended to arm staff during the 2018/2019 school year and whether such persons would have the basic peace officer training mandated by R.C. 109.78(D). (A true and accurate copy of the 8/7/2018 letter is attached as Ex. 18.)

78. The letter also disputed the Board’s responses to Ms. Gabbard’s previous records

requests and asked that the Board reconsider and rectify its inappropriate withholding of public records as security records. Specifically, the letter explained: “The Board cannot evade public scrutiny of its policies by hiding behind a blanket invocation of the ‘security record’ exemption to Ohio’s Sunshine law, particularly where the requested records concern issues like vetting, training, and rules-of-engagement that will not compromise operational security.” The “Board Letter to the Community” sent to parents on July 28 itself reflected that there were many details that could be disclosed without compromising security concerns. *Id.*

79. Additionally, the letter reasserted several public records requests that the Board appeared to have overlooked in Ms. Gabbard’s prior requests. The letter requested (again) that the Board disclose the research it considered in adopting the Resolution. In the “Board Letter to the Community,” the District had referenced “significant due diligence,” data from Ohio and other states, communications with other districts, and communications with Sherriff Jones, the SROs, and FASTER representatives. The August 8 letter requested all such public records, along with the “procedures for evaluating staff when deciding whether to arm them,” and “the Board’s plan for training armed staff.” (*See Ex. 18, supra.*)

80. The Board next met in open session on August 13, 2018. At that meeting, Ms. Gabbard and other parents again expressed their concerns to the Board and requested more transparency in the process. The Board also amended several of its existing policies, including its existing “Weapons” policy, to include the following language: “The Board designates certain approved employees and volunteers to possess, store, or use weapons, including a concealed weapon. The Board may also, at its discretion, designate additional school employees and volunteers to possess, store, or use weapons, including a concealed weapon.” The Board then went into executive session to continue acting upon its Resolution. (*See Ex. 6, supra.*)

E. The Board’s Second Response

81. The Board responded to the August 7 public records request on August 15, 2018. (See Ex. 7, *supra*.)

82. In its letter, the Board first refused to confirm whether it was planning to arm teachers for the 2018/2019 school year. It stated:

The Board has taken action to authorize certain qualified individuals to carry firearms and has approved a firearms authorization policy. Whether and which employees (if any) are authorized to carry firearms will not be made public by the Board. *Id.*

83. The Board refused to reconsider its blanket invocation of the “security record” exemption. It acknowledged that it had made some “limited” disclosures regarding its firearm authorization policy, but stated that such disclosures “do not compromise the Board’s school security.” It did not explain how disclosing other policies—such as the use of force policy or the standard for withdrawing a staff member’s authorization—would compromise security. *Id.*

84. As with the plaintiffs’ previous request, the Board likewise denied the public records requested in the August 7 letter, including the request for the data and other research the Board relied upon in adopting the Resolution. Again, the Board invoked the security records exemption, citing R.C. 149.433 and R.C. 3313.536(I). *Id.*

85. For the plaintiffs, the lack of transparency has meant that there is simply no way for them to make an informed decision if they are comfortable continuing to send their children to the District’s schools. It has made them worry every day they have sent their kids to school this school year about what might happen and what might go wrong because of armed teachers and staff.

**CLAIM FOR RELIEF: DECLARATORY JUDGMENT
(Violation of R.C. 109.78(D); Ohio Declaratory Judgment Act R.C. 2721.01 et seq.)**

86. The preceding and subsequent allegations are incorporated into this claim for relief, as though fully set forth herein.

87. The Ohio Declaratory Judgment Act allows “any person . . . affected” by a state or local law or resolution to have a court “determine[] any question of construction or validity” of that law. R.C. 2721.03; *see Pack v. City of Cleveland*, 1 Ohio St.3d 129, 132, 438 N.E.2d 434 (1982).

88. A local law, including a school board resolution, that is in conflict with a state law, is invalid. Ohio Const. art. XVIII, § 3; *Rispo Realty & Dev. Co. v. City of Parma*, 55 Ohio St.3d 101, 105, 564 N.E.2d 425 (1990).

89. Ohio Revised Code 109.78(D) states:

No public or private educational institution or superintendent of the state highway patrol shall employ a person as a special police officer, security guard, *or other position in which such person goes armed while on duty*, who has not received a certificate of having satisfactorily completed an *approved basic peace officer training program*, unless the person has completed twenty years of active duty as a peace officer. (Emphasis added.)

90. Ohio Revised Code 109.78(D), by its plain language, prohibits any public educational institution from employing a person in a “position in which such person goes armed while on duty,” if that person has not satisfactorily completed an “approved basic peace officer training program,” or does not have “twenty years of active duty” experience as a peace officer. By its plain language, R.C. 109.78(D) is not limited to employees who serve as “security personnel.”

91. Even if R.C. 109.78(D) only applied to individuals who serve in a security capacity, the teachers armed pursuant to the Resolution *are* intended to serve as “security personnel,” as demonstrated by the fact that (a) the purpose of the Resolution is to arm staff “for the welfare and safety of the Students,” (b) the FASTER Program trains teachers and staff to act for the protection of the students; (c) the proposed insurance would cover wrongful acts that may occur in the course of “law enforcement activities.”

92. The Board’s Resolution, adopted April 24, 2018, permits authorized employees to “go[] armed while on duty” without the “approved basic peace officer training” or twenty years’

experience as a peace officer that the statute requires.

93. The Board's Resolution and policies allow authorized employees to go "armed while on duty," after completing the FASTER Program. The FASTER Program consists of 26 hours of training. The basic peace officer training program approved by the Ohio Peace Officer Training Commission consists of over 700 hours. The FASTER Program is not a basic peace officer training program approved by OPOTC, and it does not provide the equivalent training.

94. Arming teachers and other staff in schools with less than the requisite training increases the risk that the plaintiffs' children and other children and community members in the Madison schools would be harmed by a firearm brought onto school grounds by employees.

95. Because the Board's Resolution does not provide the training required by R.C. 109.78(D), it is invalid and can have no force or effect.

96. Because the Resolution is invalid, pursuant to R.C. 2721.09, the Board should be enjoined from taking any actions under the Resolution and from authorizing any persons to carry guns in its schools without the training required by R.C. 109.78(D).

PETITION FOR MANDAMUS
(Mandamus to Compel Release of Public Records Under R.C. 149.43)

97. The preceding and subsequent allegations are incorporated into this petition for mandamus, as though fully set forth herein.

98. Persons aggrieved by the failure of a public office or official to produce a public record may "[c]ommence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with [Ohio public records laws], that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages." R.C. 149.43(C).

99. To secure a writ of mandamus, a petitioner must demonstrate a clear legal right to

the relief prayed for, the respondents' clear legal duty to perform the requested act, and the absence of an adequate remedy at law. *State ex rel. Seikbert v. Wilkinson*, 69 Ohio St.3d 489, 490, 633 N.E.2d 1128 (1994).

100. The petitioner requested that the Board disclose public records through written requests on April 26, 2018, July 9, 2018, and August 7, 2018. (True and accurate copies of those public records requests are attached at Exs. 12, 14, and 18.) The petitioner's records request includes records documenting:

- a. The rules of engagement for armed staff;
- b. The policies for safe storage of firearms;
- c. Standards for evaluating staff when deciding whether to arm them;
- d. Standards for withdrawing written authorization if an armed employee has acted improperly with the firearm or otherwise becomes disqualified from carrying a gun;
- e. Guidelines for keeping parents informed on implementation of the Resolution;
- f. Options for parents to withdraw their children from classrooms with armed teachers, or for students to opt out of such classrooms;
- g. Research considered by the Board in considering the April 24, 2018 Resolution, including but is not limited to, the following documents referenced in the recent "Board Letter to Community": (a) documents comprising or memorializing the "significant due diligence" the Board asserts that it conducted "in preparation of its policy" to arm staff; (b) communications between the Board or its representatives and the "2 districts in Ohio that have allowed armed teachers," along with any documents memorializing those communications; (c) communications between the Board or its representatives and the District's "SRO and Sherriff Jones about pros and cons and choosing capable individuals," along with any documents memorializing those communications; (d) the "data" considered by the Board concerning "6 years of Ohio districts allowing concealed carry" and also concerning other "states that have been allowing faculty and staff to carry a handgun;" (e) Research considered by the board concerning "instances of issues with staff and guns in school.;" (f) communications between the Board or its representatives and representatives of "the FASTER program for information on their training;" and
- h. The Board's plan for training armed staff.

101. Under Ohio law, a “record” is “any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.” R.C. 149.011(G). A “public record” as “any record that is kept by any public office,” R.C. 149.43(A)(1), including a school district or board of education, *see* R.C. 149.011(A).

102. The requested records are “public records,” as defined in R.C. 149.43. The petitioners have a clear legal right to these records under Ohio law. *See* R.C. 149.43(B)(1).

103. The respondents have a clear legal duty to produce these records. *See* R.C. 149.43(B)(7). To the extent that portions of these documents are not public records, the respondents have a clear legal duty to produce redacted versions of the records, rather than refusing to produce them at all. *See* R.C. 149.43(B)(1).

104. The requested records are not subject to any exemptions under the law. *See* R.C. 149.43(A)(1)(a). The requested records are not “security” records, as defined in R.C. 149.433(A).

105. The records are not (nor were at the time of each request) part of an emergency management plan adopted pursuant to R.C. 3313.536. To the extent that some of these records were included in the school’s emergency management plan, they cannot immunize documents that otherwise exist outside of that plan or that can otherwise be disclosed.

106. Disclosing the requested records would not compromise the security of the District’s schools.

107. The relator is not requesting that the Court order disclosure of the names of the teachers or other employees that have applied or have been authorized to be armed.

108. The relator is not requesting floor plans of any buildings.

109. The relator is not requesting the details of any particular or direct threat assessment or response.

110. The respondents failed to produce or make available the requested public records (except those related to insurance), as demonstrated by respondents' failure to answer petitioner Erin Gabbard's April 26 request, their July 23, 2018 response to relators' July 9 request, and their August 15, 2018 response to the relator's August 7 request. (The attached responses at Exs. 15 and 7 are true and accurate copies of the emailed letters received by relators' counsel.)

111. To the extent that some of the requested records did not exist at the time of the request or at the time of the Board's response, the respondents failed to accurately inform the relator that the documents did not exist. *See* R.C. 149.43(B)(3).

112. There is no other remedy outside of mandamus to compel the production of these public records because a public-records action must be brought as a mandamus action. *See State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 427, 639 N.E.2d 83 (1994).

113. The relator is entitled to a writ compelling the respondents to produce the requested records, and pay statutory damages, costs, and attorneys' fees under R.C. 149.43(C).

PRAYER FOR RELIEF

The plaintiffs request that the Court:

a. Declare, pursuant to its power under R.C. Chapter 2721, that the District's resolutions and policies that authorize or otherwise permit teachers and other personnel in the Madison Local School District to carry firearms without having completed basic peace officer training or having twenty years' experience as a peace officer are in violation of R.C. 109.78 and shall have no legal effect.

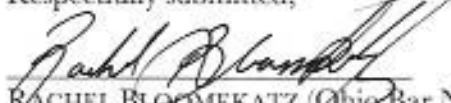
b. Award all necessary relief to effectuate this declaration, *see* R.C. 2721.09; R.C. 2727.03, including preliminarily and permanently enjoining the District from authorizing school personnel to carry firearms in violation of R.C. 109.78.

c. Grant the relator's petition for mandamus and require the District to disclose the requested public records. *See* R.C. 149.43.

d. Award the plaintiffs' their costs, expenses, statutory damages, and attorney fees. *See* R.C. 149.43(C); R.C. 2721.11; R.C. 2721.16; and R.C. 2323.51.

e. Award all other appropriate relief.

Respectfully submitted,



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EVERYTOWN FOR GUN SAFETY SUPPORT FUND

132 E. 43rd Street, # 657

New York, NY 10017

**Pro hac vice application pending*

September 12, 2018

Attorneys for Plaintiffs-Relators

CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2018, I served a copy of this complaint and summons on all parties through first class certified mail:

MADISON LOCAL SCHOOL DISTRICT BOARD OF EDUCATION
c/o President David French
1324 Middletown Eaton Rd.
Middletown, OH 45042

LISA TUTTLE-HUFF,
Superintendent of the Madison Local School District,
1324 Middletown Eaton Rd.
Middletown, OH 45042

I also certify that on September 12, 2018, I emailed and sent a copy of this complaint to the defendants' counsel:

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Rachel Bloomekatz