

## Open FCPS Coalition

### Petition for Removal of Fairfax County School Board Member Elaine V. Tholen

**WHEREAS**, Virginia Code section 24.2-233 states in pertinent part: “Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court ... [f]or neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office.”

**WHEREAS**, on July 10, 2020, The American Academy of Pediatrics released the following statement:

We recognize that children learn best when physically present in the classroom. But children get much more than academics at school. They also learn social and emotional skills at school, get healthy meals and exercise, mental health support and other services that cannot be easily replicated online. Schools also play a critical role in addressing racial and social inequity. Our nation’s response to COVID-19 has laid bare inequities and consequences for children that must be addressed. This pandemic is especially hard on families who rely on school lunches, have children with disabilities, or lack access to Internet or health care.

**WHEREAS**, on July 21, 2020, Dr. Gloria Addo-Ayensu of the Fairfax County Health Department advised the Fairfax County School Board that it was safe to operate in-person learning. A statement consistent with the position of the Centers for Disease Control and Prevention, the World Health Organization, and the Virginia Department of Health.

**WHEREAS**, as a school board member Elaine V. Tholen has a duty, as provided in the Fairfax County Board Strategic Governance Manual, to “make policy decisions based on the available facts and appropriate public input.”

**WHEREAS**, Elaine V. Tholen voted to keep all Fairfax County Public Schools closed thereby overruling and ignoring local and national medical experts which have stated that keeping schools closed would be detrimental to all children and, thereby, violating her duty as a school board member.

**WHEREAS**, keeping schools closed hurts children with disabilities the most, and violates their legal rights.

**WHEREAS**, in speaking against and voting in opposition to reopening Fairfax County Public Schools without making any dispensations for students with special needs or disabilities, Elaine V. Tholen violated state and local laws and regulations, including the requirement in 8 Virginia Administrative Code 20-81-30 that “[e]ach local school division shall ensure that all children with disabilities aged two to 21, inclusive, residing in that school division have a right to a free appropriate public education;” and R 2670.2 which establishes the duty of Fairfax County Public Schools to provide a free appropriate public education for students with disabilities under federal and state laws.

**WHEREAS**, a clear majority of Fairfax County parents want to return to in-person education in Fairfax County Public Schools as evidenced by a summer 2020 poll conducted by the school district, which found that more than half of parents chose or defaulted to an in-person option; however, as of October 21, 2020, only 3.5% of Fairfax County students have been approved for in-person learning.

**WHEREAS**, by continuing to ignore the majority vote of Fairfax County parents who want schools to reopen Elaine V. Tholen further violates her duty to “make policy decisions based on the available facts and appropriate public input.”

**THEREFORE**, we the undersigned registered voters of Fairfax County ask that the Fairfax County Circuit Court immediately suspend Elaine V. Tholen from the Office of School Board Member upon the filing of this petition, as allowed for by Virginia Code section 24.2-236, and subsequently set a trial for her removal.

*In signing this petition, each signatory affirms and represents, under penalty of perjury that he/she has read and understands the foregoing allegations, is over the age of eighteen, is a resident and registered voter in the Dranesville District of Fairfax County, and is in fact the person whose name that signatory purports to be and the signatory’s signature below is the genuine signature of the person that signatory purports to be.*

#	Printed Name	Signature	Residence Address	Date Signed	Last 4 Of SSN (Optional)
1.					
2.					

**Petition for Removal of Fairfax County School Board Member Elaine V. Tholen (continued from reverse side)**

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#	Printed Name	Signature	Residence Address	Date Signed	Last 4 Of SSN (Optional)
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**AFFIDAVIT**

Commonwealth of Virginia, County of Fairfax:

I, \_\_\_\_\_, swear or affirm that (i) my full residential address in the Commonwealth of Virginia, County of Fairfax is \_\_\_\_\_, (ii) I am not a minor, (iii) I am not a felon whose voting rights have not been restored; (iv) I have witnessed the signature of each person who signed this page; and (v) I consent to the jurisdiction of the courts of Virginia in resolving any disputes concerning the circulation of petitions, or signatures contained therein. I understand that falsely signing this Affidavit is a felony punishable by a maximum fine up to \$2,500 and/or imprisonment up to ten years.

\_\_\_\_\_, signed \_\_\_\_\_ in the presence of a notary.  
Circulator Signature Date

The foregoing instrument was subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by (circulator name) \_\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Signature Registration # Commission Expiration