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| DISTRICT COURT, BOULDER COUNTY, COLORADO<br>1777th 6th Street<br>Boulder, Colorado 80302<br>303-441-3750 | |
| **EVAN HARVIE,**<br>**KATHARINE ROSENTHAL, and**<br>**THERESA SCHULTZ,**<br><br>**Plaintiffs,**<br><br>**v.**<br><br>**BOULDER VALLEY SCHOOL DISTRICT BOARD OF EDUCATION,**<br><br>**Defendant.** | **▲COURT USE ONLY▲** |
| Attorney for Plaintiffs:<br>Eric Maxfield, #29485<br>ERIC MAXFIELD LAW, LLC<br>357 S. McCaslin Blvd. Suite 200<br>Louisville, Colorado 80027<br>303-502-7849<br>Eric@ericmaxfieldlaw.com | Case No: 2026CV030894<br><br>Division: 2 |
| VERIFIED MOTION FOR CONTEMPT CITATION | |

Plaintiffs Evan Harvie, Katharine Rosenthal, and Theresa Schultz respectfully submit this Verified Motion for Contempt Citation against Defendant Boulder Valley School District Board of Education ("BVSD" or "Board"), pursuant to C.R.C.P. 107(a)(3) and (5) for indirect, remedial contempt of the Court's October 8, 2026 "Minute Order re: Hearing", and for a Contempt Citation and Order to Show Cause.

[Counsel conferred and the Board objects to the relief sought in this Motion, and has indicated it will make a single change in response to conferral, see ¶ 6, infra. The single change, even if made, continues to leave the Board in contempt of the Court's "stay" Order.]

1. Plaintiffs filed a Verified Open Meetings Law Complaint and Emergency Motion for Preliminary Injunction on September 30, 2026.

2. The Court held a two-hour hearing on the Emergency Motion for Preliminary Injunction on October 8, 2026. At the conclusion of the hearing, the Court Ordered a "stay" from the bench of implementation of the school closure Resolution that the Board had passed on September 22, 2206.

3. The Court Ordered, on October 8, 2026, in its "Minute Order re: Hearing":

> The Court held a hearing regarding Plaintiffs' motion for a preliminary injunction. Both parties were represented by Counsel. The Court took testimony and then to [sic] the case under advisement. The Court ORDERED a stay of the Defendant's implementation of any plan regarding school closures until the ruling issues.
> Issue Date: 10/8/2026

4. The Order was served on counsel for the Board by the Court through the Colorado Court e-filing system on October 8, 2026.

5. BVSD has a yearly "Showcase" where each BVSD school is present with tables/booths to provide information to and recruit students. The Showcase occurs this year at the CU Events Center, 950 Regent Drive in Boulder, today, October 21, 2026. The BVSD web site provides

materials promoting the Showcase, including a map of the CU Events Center with the location of all school tables/booths. The schools slated for closure are omitted from the map, accessible here: https://www.bvsd.org/current-topics/bvsd-showcase. At the Showcase, in fact none of the elementary schools slated for closure has a table/booth. Such conduct by the Board is implementation of the school closure plan, and is contemptuous of the Court's October 8, 2026 Order.

6. According to the Board's own rationale, enrollment is the lifeblood of any school. Thus, precluding enrollment at schools slated for closure and forcing families to plan their lives and futures around other schools is a method of implementing the Resolution and is relatedly a means of ensuring the demise of those schools.

7. The Flatirons Elementary School web site has a "pop up" when one clicks on the web site, which claims that the school is slated for closure (yellow highlight added).

## Enrollment Resources & Information

The BVSD Board of Education voted on the Resilient Schools Proposal and decided to close Flatirons Elementary at the end of this school year. You can watch the recent BVSD Board work session held on Tuesday, September 22, through the BVSD Board of Education recordings.

Here are a few helpful links:

- Most recent Board of Education work session
- One-page summary of the proposed changes
- BVSD Resilient Schools website -- a hub for families with information about the proposal and transition process

**A few important dates to know:**
The Open Enrollment window has moved to **November 1 through December 18** this year, earlier than usual, so families and staff have more time to plan. The **BVSD Showcase is October**

**21**, with an early window for families impacted by closure or consolidation to visit school tables before the event opens to the public.

**Questions or feedback?**
The Resilient Schools Questions and Comments Form is the best way to make sure your questions are tracked and addressed. You can also reach the district's transition liaison directly at family.transitionsupport@bvsd.org or 720-561-2647.

At the school level, our PTO meetings remain open to all families and will include updates as information becomes available. If you're interested in joining our School Accountability Committee, please reach out -- we'd love to have you involved.

The pop up indicates unequivocally that Flatirons Elementary will close. The BVSD could have a pop up that says "Court Orders Stay of Implementation" or similar, but has not done so. The messaging implements the closure plan and is contemptuous of the Court's October 8, 2026 Order.

8. The BVSD has a web site has a page titled:

K-12 School Finder How to Find Your Neighborhood School

a.) And there is a link "all BVSD school locations" that takes a viewer to a map, searchable by inserting an address. If one enters the address of a student in the Flatirons Elementary boundary, the Whittier school boundary is shown. Entering the address of Flatirons Elementary itself, 1150 7th St, Boulder, results in no evidence of Flatirons as an existing elementary school, and Whittier boundaries appear.

b.) This is available at https://www.bvsd.org/departments/enrollment/k-12-school-finder.

c.) BVSD has indicated in conferral that it will "taking steps to address this". At the time of this filing, Plaintiffs are unaware of any steps taken to address the map. Regardless, the map has been available for an unknown period of time to persons attending the "Showcase" and therefore confirms no Flatirons. The map was and is contemptuous of the Court's October 8, 2026 Order.

9. Defendant Board was aware of the Order, and had and now has a present ability to comply with the Order.

10. Defendant, despite having the present ability to comply with the Court's October 8, 2026 Order, has not complied.

**Standard**

C.R.C.P. 107(c) provides:

> Indirect Contempt Proceedings. When it appears to the court by motion supported by affidavit that indirect contempt has been committed, the court may ex parte order a citation to issue to the person so charged to appear and show cause at a date, time and place designated why the person should not be punished. The citation and a copy of the motion, affidavit and order shall be served directly upon such person at least 21 days before the time designated for the person to appear. If such person fails to appear at the time so designated, and it is evident to the court that the person was properly served with copies of the motion, affidavit, order, and citation, a warrant for the person's arrest may issue to the sheriff. The warrant shall fix the date, time and place for the production of the person in court. The court shall state on the warrant the amount and kind of bond required. The person shall be discharged upon delivery to and approval by the sheriff or clerk of the bond directing the person to appear at the date, time and place designated in the warrant, and at any time to which the hearing may be continued, or pay the sum specified. If the person fails to appear at the time designated in the warrant, or at any time to which the hearing may be continued, the bond may be forfeited upon proper notice of hearing to the surety, if any, and to the extent of the damages suffered because of the contempt, the bond may be paid to the aggrieved party. If the person fails to make bond, the sheriff shall keep the person in custody subject to the order of the court.

C.R.C.P. 107(d)(2) Remedial Sanctions, provides,

> In a contempt proceeding where remedial sanctions may be imposed, the court shall hear and consider the evidence for and against the person charged and it may find the person in contempt and order sanctions. The court shall enter an order in writing or on the record describing the means by which the person may purge the contempt and the sanctions that will be in effect until the contempt is purged. In all cases of indirect contempt where remedial sanctions are sought, the nature of the sanctions and remedies that may be imposed shall be described in the motion or citation. Costs and reasonable attorney's fees in connection with the contempt proceeding may be assessed in the discretion of the court. If the contempt consists of the failure to perform an act in the power of the person to perform and the court finds the person has the present ability to perform the act so ordered, the person may be fined or imprisoned until its performance.

WHEREFORE, Plaintiffs having demonstrated that indirect contempt has been committed, Plaintiffs respectfully request, pursuant to C.R.C.P. 107(c) that the Court *ex parte* order a citation to issue to the Defendant to appear and show cause at a date, time and place designated why the Defendant should not be punished. In such show cause hearing, Plaintiffs request that the Court determine an appropriate remedial sanction under C.R.C.P. 107(d)(2), and award Plaintiffs their reasonable attorney fees and costs in connection with the proceeding.

Verification:

I declare under penalty of perjury under the law of Colorado that the foregoing facts are true and correct.

*/s/ Katharine Rosenthal*
Katharine Rosenthal

It is important that the party accused
of contempt read the following
information.
A party accused of remedial contempt has the
following rights:
1. The right to be represented by a lawyer.
2. The right to a hearing before a judicial
officer where the court must find that you

were subject to a court order, that you had knowledge of that Order, that you did not comply with the Order, that you had the ability to comply with that Order, and that you have the present ability to comply with that Order.

If you are found to be in remedial contempt of court, the court may require you to pay the other party's court costs and attorney's fees connected with the contempt hearing, to pay a fine, and/or to serve an indefinite jail sentence until you comply with the original order.

A party accused of punitive contempt has the following rights:

1. The right to be represented by a lawyer. If you cannot afford a lawyer and if a jail sentence is contemplated, you may apply for a court-appointed lawyer.
2. The right to a jury if a jail sentence in excess of 180 days is contemplated.
3. If the judge initiated the proceedings, the right to have the contempt matter heard by a different judge.
4. The right to plead guilty or not guilty to the charge of contempt.
5. The right to be presumed innocent unless and until the allegation(s) in the motion for contempt is/are proven beyond a reasonable doubt.
6. The right to confront and cross-examine all witnesses against you.
7. The right to present relevant witnesses and evidence at the hearing.
8. The right to request the court to issue subpoenas to compel witnesses to appear and give testimony.
9. The right to remain silent.
10. The right to testify on your own behalf. If you testify, you waive your right to remain silent and the other party may cross-examine you.
11. The right to make a statement on your own behalf prior to the imposition of sanctions, if you are found in contempt of

court.
If the court finds beyond a reasonable doubt that you were subject to a lawful court Order, that you had knowledge of that Order, that you had the ability to comply with that Order, that you willfully failed or refused to obey that Order, and that such conduct was offensive to the authority and dignity of the court, you may be sentenced to pay a fine or serve a jail sentence.

Respectfully submitted this 21st day of October 2026.

*/s/Eric Maxfield*
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Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

This is to certify that I have duly served this **VERIFIED MOTION FOR CONTEMPT CITATION** upon all parties herein by email, this 21st day of October, 2026:

Elliott Hood
Zoe Verhoeven
Caplan and Earnest LLC
Attorneys for Defendant Boulder Valley School District Board of Education

*/s/* Eric Maxfield