



## Whitmer's Back-and-Forth on Football Raises Questions On The 'Science' She Cites

BY TOM GANTERT

Gov. Gretchen Whitmer's path to allowing high school football this fall brings into question her claims that the decisions are based on science and data.

Consider the timeline for the football decision.

On Aug. 11, the Big Ten, which includes the University of Michigan and Michigan State, announced they were postponing the fall football season until spring. This was supported by Whitmer, but a backlash against the decision sparked several teams to try a shortened season. The idea has not flown with Whitmer, reportedly painting her as the main "roadblock" to college football this year.

On Aug. 14, the Michigan High School Athletic Association announced in a press release that football was being moved to the spring season.

"At the end of the day, we did everything we could to find a path forward for football this fall," MHSAA Executive Director Mark Uyl said in a press release. "But while continuing to connect

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Backed By Police Unions in 2018,  
Whitmer Silent On Police Union Reforms



## MEET THE STAFF



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# NEWS BITES

## Former Crain's Detroit Business Publisher Calls Rand Paul 'Bed-Wetting Snowflake'

Ron Fournier, formerly the editor and publisher of Crain's Detroit Business, called U.S. Sen. Rand Paul a "bed-wetting snowflake" on Twitter.

Fournier was replying to a Tweet by Paul describing how Paul got away from an "angry mob" of over 100 people in Washington D.C. after the Republican National Convention.

Paul was also at the softball practice in 2017 when left-wing activist James Hodgkinson opened fire on Republican politicians, according to CNN.

In 2017, Rand's neighbor attacked him and broke six of his ribs, according to the Associated Press.

On July 16, 2020, Fournier wrote a column in the Detroit News about being offended when "a curly-haired blonde girl — maybe 7 years old" mocked him for wearing a face mask.

Fournier, who now works for the public relations firm Truscott Rossman, appears to have taken down the tweet.

## State Takes On First \$800 Million In New Road Repair Debt

The Michigan Department of Transportation has finalized plans to borrow the first \$800 million out of an eventual \$3.5 billion in new road repair debt, according to a state press release.

The borrowing will be done by selling state bonds over the next few years, with an expectation that the debt will be paid off over 25 years.

Gov. Gretchen Whitmer said the new borrowing will let the state rebuild major highways "without an increase at the gas pump," meaning a gas tax increase.

The press release did not include how much this will cost in interest, but previous reports indicate taxpayers will pay \$565 million on just the first \$800 million.

## Not '100% Safe': State Medical Director Tells Parents To Cancel Play Dates

The state's senior medical official told parents to cancel play dates for their children and require them to wear face masks even when outside because "outdoors doesn't mean it is 100% safe."

Dr. Joneigh Khaldun, the state's chief medical executive, made the comments in a Sept. 10 press conference.

"I also know, again, I'm the mother of three children, that part of the fun of childhood is having gatherings

with friends and play dates. This social interaction is important for our children's well being. I completely understand that. But please consider not having those play dates as you normally would. Try to be creative and have video conference calls with your children's friends if possible," Khaldun said. "Know that outdoor is safer than indoors, but outdoors doesn't mean it is 100% safe."

Since the start of the epidemic in the state of Michigan one child from the ages of birth to 14 has died from COVID-19. Eight Michigan children age birth to 14 have died from influenza in 2020 through Sept. 4, according to the state of Michigan.

## Governor Allows High School Swim Team Members To Remove Mandated Masks 'When Swimming'

Gov. Gretchen Whitmer has chosen to allow Michigan high school sports this fall, but students who participate must wear a face mask on the field. The Sept. 3 executive order does allow one exemption: Swim team members must also wear a mask "except when swimming."

## Southfield Schools: Too Dangerous To Teach Classes, But Do Send Kids For \$150 Per Week Daycare

Southfield Public Schools is offering online classes only as the 2020-2021 school year commences. A district "Early Childhood Education" program for children from birth to 5 years old is also online only, according to C&G Newspapers.

The district has stated the decision to limit instruction to online-only "has been made due to a large number of COVID-19 cases in our region."

Yet, the school district has allowed a private company to offer day care services at one of its schools. The cost is \$150 per week. According to the school district, 30 percent of the parents they surveyed said they need full-day care.

The amount of state income tax withheld from paychecks in Michigan was up 2.9% from November through July, compared to the same period in the previous fiscal year.

According to a Senate Fiscal Agency report, the increase is primarily due to income taxes withheld from people who received the \$600 weekly benefits boost authorized by Congress this spring. The increase expired at the end of July. Individual unemployment benefits are subject to state income tax, which recipients may elect to have withheld.

Total state income tax collections for the same period are up 1.6%, compared to the previous year. ■

## Backed By Police Unions in 2018, Whitmer Silent On Police Union Reforms

*Police collective bargaining contracts implicated in departments' failure to dismiss bad actors*

BY TOM GANTERT

In the newly heightened national debate over police reform, three police chiefs have made public statements about how union contracts protect problem police officers.

Two of those police chiefs were from Michigan. Dan Oates is a former Ann Arbor police chief and Isaiah McKinnon is a former chief of the Detroit police department.

A report released by a national association in August pointed to police unions as a major obstacle to reform. The U.S. Conference of Mayors report said that police union contracts create obstacles to removing bad officers.

The three police chiefs, including Oates and McKinnon, all said that union contract provisions make it difficult to remove problem police officers from the force.

Yet press releases on police reform issued by Gov. Gretchen Whitmer have been silent on police union contracts.

Michigan Capitol Confidential reviewed the three public statements Whitmer has made on police reform since George Floyd died in police custody on May 25 in Minneapolis, Minnesota.

On June 3, a press release from the governor listed four actions she was taking related to police reform. None were related to police union contracts.

On June 29, Whitmer issued a statement to the press listing eight policy reforms and five other actions, none of which were related to police unions.

On Aug. 14, Whitmer issued a press release about appointments she made to the Michigan Commission on Law Enforcement Standards. This is the entity that oversees licensure and training for officers and agencies statewide.

Whitmer's efforts have revolved around proposals such as mandatory training on implicit bias, de-escalation techniques, restricting no-knock warrants and limiting vehicle pursuits.

Whitmer has also stated, on her election campaign website, that she had been endorsed for election in 2018 by the Michigan Association of Police Organizations, the Michigan Fraternal Order of Police and the Deputy Sheriffs' Association of Michigan. ■

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## Most Michigan Schoolchildren To Have One Interaction With A Teacher Most Months

*No in-person meetings required; four emails would qualify in two other months*



BY TOM GANTERT

Most Michigan children enrolled in public schools this fall will receive online lessons only, with just a single two-way interaction in most months with one of their teachers.

The communications methods specified for this interaction include email, telephone, instant messaging (text), or a face-to-face conversation.

With a few exceptions, Michigan public schools will not open for physical classes this fall, and perhaps not in 2021 either. Bills prescribing the alternatives passed the Michigan legislature during the past week, and were signed into law by Gov. Gretchen Whitmer on Aug. 20.

For most students instruction will be remote only — no in-school or in-person interactions.

To qualify for per-pupil state funding schools would have to certify that 75% of the children they enroll have just one two-

way interaction per month with one of their teachers, except in October and February. In a normal year students are counted on a certain day during those months to determine state per-pupil funding. During the epidemic, in those two months districts will have to arrange four two-way interactions between a child and a teacher.

The new law defines “2-way interaction” as “a communication that occurs between a pupil and the pupil’s teacher or at least 1 of the pupil’s teachers, where 1 party initiates communication and a response from the other party follows that communication, and that is relevant to course progress or course content for at least 1 of the courses in which the pupil is enrolled. Responses...must be to the communication initiated by the teacher, and not some other action taken.” ■

*The original version of this story was posted online on Aug. 20, 2020 and is available at [MichCapCon.com/27948](https://michcapcon.com/27948).*

## Whitmer's 'Enhanced' Executive Order Penalties Appear Outside The Law And Constitution

*State sidestepping state of emergency law by pulling sanctions from a different law*

BY TOM GANTERT

The state of Michigan may be violating a court ruling by issuing much larger fines than allowed for businesses that violate one of Gov. Gretchen Whitmer's COVID-19 executive orders.

On Aug. 21, the state of Michigan announced it had cited six businesses for violations for "not taking the appropriate steps to protect employees and their communities from the spread of COVID-19." A state agency issued a press release headlined, "State Issues COVID-19 Citations for Workplace Safety Violations, Urges Businesses to Protect Employees"

The violations were related to social distancing and face mask use, issues covered in Whitmer's executive orders.

In June, the Court of Claims ruled that in seeking to increase penalties specified in her own executive orders, the governor's team were acting outside the law.

On behalf of builders and landscapers, the Mackinac Center Legal Foundation filed a lawsuit in May arguing that it violated the state constitution to increase the penalties beyond those specified in the same law authorizing emergency executive orders.

In Executive Order 97, Whitmer implemented "strict workplace safety measures" that increased penalties for executive order violations by businesses. The previous penalty was a 9-day jail sentence and \$500 fine.

By transferring enforcement to the Michigan Occupational Safety and Health

Administration (MIOSHA), the penalties (a three-year felony and a fine as much as \$70,000) were increased to those authorized by a different law. The court ruled that the fines and penalties had to be limited to those specified in the law authorizing executive orders, which are misdemeanors subject to a \$500 fine.

The Whitmer administration is trying to get around that court ruling by citing what it calls "general duty" clause under MIOSHA law.

The state said in a press release, "The MIOSHA 'general duty' clause requires an employer to provide a workplace that is free from recognized hazards that are causing, or are likely to cause, death or serious physical harm to the employee. A general duty clause citation carries a fine of up to \$7,000."

For example, the state cited a Speedway gas station in Waterford where employees were inadequately wearing face masks under the nose, and that was not providing face coverings to employees free of charge, among other violations. MIOSHA fined the gas station \$6,300.

Under this interpretation, the penalties that would apply in these cases are those specified for actions that "cause or likely to cause, death or serious physical harm to the employee." ■

*The original version of this story was posted online on Aug. 31, 2020 and is available at [MichCapCon.com/27980](https://michcapcon.com/27980).*



## Michigan Health Official Calls COVID Survivors ‘Lucky,’ CDC Data Suggests Survival is Commonplace

BY TOM GANTERT

The state of Michigan’s chief medical executive, Dr. Joneigh Khaldun, recently told reporters that residents are lucky if they contract COVID-19 but don’t die from it.

“If you’re lucky, you get to keep your life and you don’t die. But even if you live, there are many people that have long-term health consequences,” Khaldun said at an Aug. 19 press conference.

But according to the Centers for Disease Control and Prevention, it’s very unlikely the coronavirus epidemic will generate very high mortality rates.

The CDC ran five scenarios for the infection fatality ratio. It described the ratio this way: “The number of individuals who die of the disease among all infected individuals (symptomatic and asymptomatic).” The agency continued, “This parameter is not necessarily equivalent to the number of reported deaths per reported case because many cases and deaths are never confirmed to be COVID-19, and there is a lag in time between when people are infected and when they die.”

The chances of dying from COVID-19 range from 0.5% to 0.8%, with the CDC’s

current best estimate at 0.65%. That means the CDC’s best estimates currently are that 650 out of 100,000 who contract COVID-19 would die from it.

That would mean, on average, a Michigan resident would have to be very unlucky to die from COVID-19.

This is not the first time a high level government health official has made claims about the epidemic that border on fear mongering.

As Michigan Capitol Confidential has previously reported on June 20, the city of New Orleans’ health director warned that people who host parties who may be violating social distancing rules by not requiring guests to wear face masks.

Dr. Jennifer Avegno said party hosts should select the seven guests out of 100 who they will be “sentencing to death.”

“Right now our fatality rate of known cases is stubbornly stuck at 7%,” Avegno wrote in a June 20 press release. “If you are planning a party for 100 people, look around and decide which 7 of them you would be comfortable sentencing to death.” ■

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## Ex-ACLU Head Plays Race Card On Detroit Schools

*Yet, Detroit receives thousands of dollars more per student than the average Michigan school district*

BY TOM GANTERT

Kary Moss, former executive director of ACLU of Michigan, called alleged funding gaps between the school districts in Birmingham and Detroit an example of “structural racism.”

Moss tweeted that schools serving Detroit where 78% of students are black get \$8,000 per pupil, while Birmingham schools serve a 91% white population and gets \$11,000 per pupil.

“This is structural racism,” Moss said on Twitter.

Detroit Public School Community District actually received \$14,744 per pupil in its general (operations) fund in the 2018-19 school year, when all funding sources (local, state and federal) are included. That comes from the Michigan Department of Education.

The average Michigan school district received \$10,487 per pupil in 2018-19. That means the Detroit public school district’s general fund received 41% more money for each student than the average Michigan district.

Figures reported by a U.S. Census Bureau National Public Education Finance Survey show that for Michigan school districts with more than 1,000 students, Detroit ranked 15th overall in total funding. This includes all revenue sources, and shows the Detroit district getting \$15,891 per pupil from local, state and federal revenue sources in 2018-19.

These school funding figures and data do not support a “structural racism” charge.

The dollar amounts Moss cited likely refer to a state “foundation allowance” that is just one of the revenue streams flowing into Michigan schools. It is allocated on a per-pupil basis and follows each student to whatever school district they attend.

For Detroit’s public schools, the actual 2018-19 foundation allowance was \$7,906 per pupil, while Birmingham received \$12,164 per pupil. But as the total funding figures above indicate, school districts get much more than just the state foundation allowance.

For example, in 2018-19 the Detroit Public Schools Community District received a total of \$30.9 million in additional state



Detroit students - \$8000  
Birmingham students - \$11,000  
Detroit demographics - 78% Black  
Birmingham demographics - 91% white

This is structural racism.

dollars for “at risk” students. This is defined as a students who is struggling academically in specified core subjects, is a teenage parent, or has a history of substance abuse or incarceration. Birmingham received just \$145,000 in at-risk funds.

Context is required to avoid portraying a false narrative when just comparing different school districts’ state foundation allowance amounts. The foundation allowance is based on a complex formula created as part of the bipartisan, voter-approved 1994 Proposal A school funding reform. Among other things, the formula “held harmless” several dozen school districts including Birmingham with higher local property tax revenue by adding new state school taxes to the funding mix.

Birmingham Public Schools received \$19,829 per-pupil in total funding in 2018-19, according to the National Public Education Finance Survey, or \$3,938 more per-pupil than Detroit. By using Birmingham schools in her example Moss was comparing Detroit to the state’s highest-funded district (of those with at least 1,000 students). Detroit’s total funding of \$15,891 per pupil made it the 15th-highest funded district.

The current coronavirus epidemic offers another rebuttal to Moss’s accusation. Birmingham Public Schools is eligible for \$130,990 in federal dollars under the relief package enacted this spring. The Detroit Public Schools Community District has been approved to receive \$85.1 million. ■

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## FOOTBALL

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with the Governor's office, state health department officials, our member schools' personnel and the Council, there is just too much uncertainty and too many unknowns to play football this fall."

According to media reports, the MHSAA changed its mind and left the decision to start football in the fall up to Whitmer. More than 90 percent of the MHSAA's revenue comes from ticket sales at District, Regional and Final MHSAA tournaments.

On Sept. 2, Gov. Gretchen Whitmer was asked at a press conference about the MHSAA making it her decision on whether to reinstate football for the fall.

Whitmer said, "Listen, I think that there are leaders in various roles that are struggling to figure out what the right thing

to do is. The science is incredibly important, that we stay focused on that, that we work together. I think that crises really reveal people's true character, it's been said, and I think we see that happening. And I'm going to continue to work with the association to ensure that steps that are taken are absolutely tethered to the best science and keep our athletes and their families and our educators safe."

A day later on Sept. 3, Whitmer issued an executive order that allowed high school sports to commence in the fall, including football.

In the meantime, the Michigan Department of Health and Human Services advised strongly against playing football.

"Individuals can now choose whether or not to play organized sports, and if they do choose to play, this order requires strict safety measures to reduce risk," said Chief

Medical Executive and MDHHS Chief Deputy for Health Dr. Joneigh Khaldun in a press release. "However, we know of 30 reported outbreaks involving athletic teams and facilities in August. Based on current data, contact sports create a high risk of COVID-19 transmission and MDHHS strongly recommends against participating in them at this time. We are not out of the woods yet. COVID-19 is still a very real threat to our families."

The MDHHS guidelines that were updated Sept. 3 state, "At the current juncture, the resumption of contact sports will create a risk of outbreaks among players and place coaches, family members and community members at increased risk."

As of Sept. 4, the MI Safe Start Map which indicates official risk levels of the spread of the epidemic in a region had not been updated since Aug. 14, the day the

MHSAA announced football was moving to the spring.

Over past three weeks, Gov. Whitmer has had an executive order in place preventing soccer, volleyball and football for high school and youth athletes, supported the cancellation of college football and called into question the "character" of sports organizations. She then reversed her executive order and is allowing these sports to be played, but has her chief medical executive saying contact sports are unsafe. And at no time has the state released information about the science, data or trade-offs being considered, which might allow parents, citizens and the media to assess and evaluate whether the decisions are valid. ■

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## Underfunded? Detroit Is State's 15th Best Funded Larger School District

BY TOM GANTERT

In 2018-19, the Detroit Public Schools Community District received \$15,891 per pupil (including local, state and federal money), making its total funding the 15th highest among Michigan school districts that enroll 1,000 or more students.

The state average per student revenue for all 827 school districts and charter schools that year was \$13,457 per pupil.

That means per-pupil funding at Detroit's school district was 18% higher than the average Michigan school district.

Yet, there has been an ongoing effort in the media to make it appear Detroit's school district is underfunded.

The latest example comes in the form of a Q&A between Crain's Detroit Business and Detroit Public Schools Community District Superintendent Nikolai Vitti.

Here is the exchange in which Crain's Senior Editor Chad Livengood asked Vitti about school funding:

"Livengood: I always look at Southfield as an example of this — a neighboring district to you, they get \$11,300 per kid, you get less than \$8,200 from the school aid formula and you are in competition (for students) with Southfield, I would imagine.

Vitti: Yeah, that's one of the better examples ..."

Total revenue to Southfield Public School District of \$17,352 per pupil in 2018-19 made it the fifth most highly funded Michigan school district of more than 1,000 students.



Pointing to a state "foundation allowance" that is just one of the revenue streams flowing into Michigan school districts, not total funding, Livengood said he "always" looks to compare Detroit to one of the state's best-funded districts.

Southfield has a higher "foundation allowance" amount due to the complex formula created by a 1994 voter-approved school funding reform ballot measure called Proposal A. This created a system that raised-up the funding level of districts that collect less property tax without punishing a small group of so-called "hold harmless" districts that get more revenue from that source.

Ben DeGrow, the Mackinac Center for Public Policy director of education policy, described hold-harmless districts this way:

"Before Michigan adopted its current school funding system in 1994, school districts across the state heavily depended on local property taxes that led to wide funding disparities. Proposal A limited local districts' ability to raise property taxes and created a broader pool of state tax funds that put districts on a more equal footing for per-pupil funding. The negotiations to create Proposal A included a deal that the highest-funded districts could be held harmless from having to cut their per-pupil allocation by being able to raise additional property

taxes. Over the last 25 years, lawmakers have regularly increased the minimum foundation allowance at a faster rate, which has significantly closed the district funding gap. In 2019-20, three-fourths of the state's 537 conventional districts and all of its 294 charter schools received the same foundation allowance of \$8,111, while only 43 districts could still collect extra property taxes to receive more than the hold-harmless rate of \$8,409."

Local school property tax levies bring in less to the Detroit district because property in the city is worth less. So narrow comparisons of just this revenue stream between Detroit and the handful of districts with a very rich tax base can make Detroit school funding appear subpar.

Detroit schools are well funded because as a matter of deliberate policy they get a larger share of other revenue streams. The recent allocation of the federal COVID-19 aid to school districts illustrates this policy.

Southfield was approved for \$1,384,613 of the state's federal coronavirus money, or \$240 per pupil. Detroit's school district was approved for \$85,120,566 of COVID-19 relief, or \$1,707 per pupil.

That \$1,467 per pupil funding gap is one of several where Detroit received more federal money than Southfield. ■

*The original version of this story was posted online on Aug. 29, 2020 and is available at [MichCapCon.com/27979](https://michcapcon.com/27979).*

# Nearly Six Months Into Michigan Emergency, Lockdown Rationales Keep Changing

*Normal life and large parts of state economy have been suspended since March 10*

BY STAFF

Since the beginning of the COVID-19 pandemic, Gov. Gretchen Whitmer has changed the rationales and criteria for imposing and extending the declared state of emergency that gives her unilateral control over Michigan's response.

Whitmer has gradually broadened the definitions and conditions cited to support the claim in her executive orders that a state of emergency still exists.

The first COVID-19 related executive order was Executive Order-04 of March 10, which said that its restrictions would be "terminated when emergency conditions no longer exist and appropriate programs have been implemented to recover from any effects of the emergency conditions."

EO-05 closed schools and prohibited large gatherings. The order said this was to

"mitigate the spread of COVID-19 and to provide essential protections to vulnerable Michiganders and this state's health care system and other critical infrastructure."

This same language was used in the next several executive orders, which closed restaurants and barbershops, prohibited "non-essential" medical care and limited social gatherings to 50 people.

New conditions on social and economic life were added to the stay-at-home order issued on March 23. The rationale: "To suppress the spread of COVID-19, to prevent the state's health care system from being overwhelmed, to allow time for the production of critical test kits, ventilators, and personal protective equipment, and to avoid needless deaths."

This rationale appeared in the next series of executive orders, which extended and tightened the stay-at-home order and extended other previous orders.

Until late April, Whitmer had the consent of the Legislature to maintain a state of emergency and issue emergency orders, as required under a 1976 state law. When the Legislature declined to grant further consent, the governor declared she had authority, under a rarely used 1945 law, to continue the state of emergency and issue emergency orders as long as she alone determines it is necessary.

The orders that she issued after this standoff with the legislators greatly expanded her rationale for emergency action.

The rationale for EO-66, issued on April 30, was stated this way: "The health, economic, and social harms of the COVID-19 pandemic thus remain widespread and severe, and they continue to constitute a statewide emergency and disaster. ... Moreover, state disaster and emergency

recovery efforts remain necessary not only to support Michiganders in need due to the economic effects of this pandemic, but also to ensure that the prospect of lost income does not impel workers who may be infected to report to work, which would undermine infection control and contribute to further spread of the virus. Statewide coordination of these efforts is crucial to creating a stable path to recovery. Until that recovery is underway, the economic and fiscal harms from this pandemic have been contained, and the threats posed by COVID-19 to life and the public health, safety, and welfare of this state have been neutralized, statewide disaster and emergency conditions will exist." ■

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## Whitmer To Regulators: You Must Consider **Shutting Down Businesses Violating My Orders**

BY TOM GANTERT

Michigan Gov. Gretchen Whitmer issued an executive directive Tuesday, telling state departments and agencies to make enforcing her COVID-related orders a priority. It also authorized the immediate closure and possible license suspension for businesses that do not follow them.

The executive directive also directs the Michigan State Police to enforce her executive orders as it would any other violation of law.

This directive states that any credible complaint about a business violating her orders must be referred to licensing authorities to be investigated.

It also requires that state department directors and agency heads allocate their resources to ensure they make enforcement of COVID-19 orders a priority.

The executive directive continues: "State department directors and autonomous

agency heads must consider noncompliance with a COVID-19 executive order or epidemic order to be presumptive evidence of a 'public health hazard' or 'imminent and substantial hazard to the public health.' ... When the director of the Department of Agriculture and Rural Development becomes aware of a violation of law at a food establishment inspected and licensed by the department that would create an imminent and substantial hazard to the public health, including a violation of a COVID-19 executive order or epidemic order, the director must consider whether to order immediate cessation of operation under section 2113 of the Food Law, 2000 PA 92, as amended, MCL 289.2113(1)." ■

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## Governor Blasts Federal Epidemic Strategy, Vague About Her Own

BY TOM GANTERT

Gov. Gretchen Whitmer used an Aug. 5 press conference to complain about how unprepared the federal government has been when dealing with the coronavirus epidemic.

"It's nearly five months since the first cases of COVID-19 hit our state. Five months and we still don't have a comprehensive national strategy from the federal government. We don't have a federal mask mandate, or a widespread testing plan. And the federal government has not yet agreed on a recovery plan to help the states and locals mitigate the unprecedented impact that this virus has had," Whitmer said.



Yet, when asked by a reporter what needs to happen for her to loosen restrictions on Michigan, the responses were vague.

Joneigh Khaldun, Chief Deputy Director for Health for the state of Michigan, described what must happen for the administration to lift more restrictions.

Khaldun said the state wants to see a decrease to fewer than 10 cases per million per day, and that she wants to see a "percent positivity" below 3% and to trend that way "for some time." She didn't expand on how long "some time" would be.

Khaldun continued: "Again, we're also watching our hospitalizations, we're watching our deaths. We're making sure our testing capacity is what it needs to be. So there are many things that we're looking at

to determine how we move forward with the phases across the state."

Michigan has had 23 COVID-19 related deaths in the first five days of August, according to the New York Times database. On April 27 there were 232 COVID-19 related deaths in Michigan.

There are 694 people hospitalized with the coronavirus in Michigan as of Aug. 3.

The state's hospitals have a bed occupancy rate of 69% as of Aug. 3. ■

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## Court Tosses Politicians' Lawsuit Against Residents For Critical Comments

*Action by township board members is a frivolous affront to free speech, circuit court rules*

BY DAWSON BELL

An Oakland County court has dismissed a lawsuit filed by a pair of Bloomfield Township officials against two township residents for items they posted on NextDoor.com, in which they criticized local elected leaders and a 2019 proposal to raise township taxes. The court called the suit frivolous and an affront to free speech rights.

In an Aug. 6 order, Circuit Judge Daniel O'Brien struck down all the claims raised by Township Supervisor Leo Savoie and Treasurer Brian Kepes only three months after the lawsuit was filed.

In doing so, he adopted arguments filed in defense of residents Val Murray and Kathleen Norton-Schock in their entirety.

"The very existence of this lawsuit is anathema to the foundational principles of free speech," attorney Brian Wassom argued in response to the lawsuit.

Murray and Norton-Schock were sued for damages that could amount to \$9 million for the "expression of opinion on political issues ... ideas that (Savoie and Kepes)



dislike," Wassom said, in arguments adopted by O'Brien.

The case against NextDoor.com, a social media platform, was not included in the dismissal, but Wassom said he expects the suit against the company to be dismissed fairly soon.

"This lawsuit is incredibly frivolous," Wassom said, "It would be comical if it wasn't such a dangerous assault on free speech."

Savoie and Kepes brought the action in May, claiming that critical posts in 2019 about a proposed public safety special

assessment and Murray's 2020 commentary about the novel coronavirus contained false information and violated the site's ban on political commentary.

The two township officials sought to have the case certified as a class action on behalf of residents who had been denied police and fire services that would have been provided by the tax hike (which was resoundingly defeated in August 2019).

"Nobody fact-checks at all," Savoie told The Oakland Press after the lawsuit was filed. "In fact, facts are the least of their concerns."

But Wassom said the statements and comments cited in the lawsuit are all either demonstrably true or expressions of opinion that enjoy blanket First Amendment protection.

Murray's posts about the need to employ defensive measures against the spread of the coronavirus are virtually identical to warnings posted by the township itself and public health officials at all levels, he said.

They had been cited in the officials' lawsuit as designed to "fabricate fear and panic in the community,"

Wassom said he will ask the court to order Savoie and Kepes to pay Murray and Norton-Schock's attorney fees as a sanction for bringing a case "lacking any arguable legal merit."

In an interview after O'Brien's ruling, Savoie denied that the lawsuit was aimed at suppressing speech rights. California-based NextDoor, and other social media sites, are rife with critical comments about him and other elected officials, which have not been challenged, Savoie said. But Murray's comments crossed a line, he said.

"This has always been about ... adherence to the truth," Savoie said. Murray's posts contained "out and out falsehoods ... that could negatively impact our residents."

In the Aug. 4 primary election, Savoie, supervisor since 2011, was defeated. Kepes, who also faced primary opposition, won. Murray is also running for township trustee, having advanced to the general election. ■

*The original version of this story was posted online on Aug. 15, 2020 and is available at MichCapCon.com/27907.*

## Teacher Fired For Dissing Liberals, U-M Prof Got Raises After 'I Hate Republicans'

*To save his job, district demanded teacher admit he was wrong*

BY TOM GANTERT

In 2014, University of Michigan professor Susan J. Douglas wrote a column for a website, carrying the title "It's Okay to Hate Republicans."

The first line in her column was, "I hate Republicans." She later described her feeling as loathing.

The online headline on the website InTheseTimes was later changed to "We Can't All Get Along."

The University of Michigan did not publicly rebuke Douglas for her hate speech. Instead, U-M spokesman Rick Fitzgerald said the university saw it as a "free speech issue."

Since posting that column, Douglas' salary has increased, going from \$178,786 in 2013 to \$215,387 in 2019. That's 9% above the rate of inflation.

The incident involving Douglas contrasts sharply with that of another Michigan

education professional, a Walled Lake Consolidated Schools teacher who tweeted, "Liberals suck, man."

Walled Lake teacher Justin Kucera's experience began when he posted a tweet stating, "Trump is our president." This generated negative responses, which Kucera then engaged. District administrators decided to fire him for including "Liberals suck, man" in one of his responses, saying it reflected poor judgment. Kucera had deleted the tweet but administrators were sent screen shots of it.

Emails obtained from a Freedom of Information Act request show that school administrators grilled Kucera, asking him about the impact of his tweets on the school community.

"I stated that based on the disruption his Tweet had caused in the school community that he will be offered the chance to resign or we will move forward with termination,"

an administrator stated in a July 9 email sent to other administrators. "If he resigns I would be willing to give him a neutral letter of recommendation, continue his health benefits through the end of August, and that I would not contest unemployment. If he chooses to be terminated then I would have to make different choices."

The district sent a letter to Kucera on July 17, telling him he was fired "due to your lack of Professional Judgement."

In a document titled, "[Superintendent] Ken Gutman Summary of Meetings with Justin Kucera," the district superintendent said Kucera had a previous incident of "poor judgement."

Kucera's personnel file has one incident, which noted he didn't show up for class and didn't notify anyone. That was in October 2019.

"We determined that given Mr. Kucera had a previous incident of poor judgement

and that he was still in his probationary period, this second demonstration of poor professional judgment in a relatively short period of time was sufficient grounds for termination," Gutman stated.

Gutman then described how he had second thoughts about firing Kucera, writing it was the "liberals suck, man" tweet that caused his dismissal, not his support of Trump.

Gutman wrote that Kucera could return to teaching in the district if he admitted he was wrong, took a suspension without pay and made a promise to do better. He stated that Kucera declined because he was concerned that the incident would damage his ability to be an effective teacher.

The information in this story came from a Freedom of Information Act sent to the Walled Lake Consolidated Schools. ■

*The original version of this story was posted online on Aug. 14, 2020 and is available at MichCapCon.com/27914.*

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## New Superintendent Tells Leland Families, Students To Join Black Lives Matter And 'Protest'

*Subject line of local realtor's complaint: 'Dan Fox Protesting in Lansing'*

BY SANDY MALONE

Some parents and community members are upset about a letter the new Leland Public Schools superintendent sent out to the community ahead of the school year on the subject of their “unintentional roles in white privilege.” The letter also declared that residents need to “examine the disparity in our experiences and the underlying reasons that have created the privilege we who are white enjoy.”

Leland Public Schools Superintendent Stephanie Long said in her July letter to students and parents that because of “recent events and the ensuing turmoil in our country, I wanted to reach out and share my position regarding the protests and demonstrations that have been occurring these last several weeks.”

“As uncomfortable and sometimes scary as it is, we need to question and reflect on our own privileges that have allowed us to stay immune to the struggles of our Black neighbors,” Long wrote. “Why is it that white people in our community move through the world so differently from our fellow citizens who are Black? We need to examine the disparity in our experiences and the underlying reasons that have created the privilege we who are white enjoy.”

She asserted that the positions she was espousing were those of the International Baccalaureate program upon which the school district is based.

Long then instructed parents that it was time for “adults to stop talking and defending our beliefs” and encouraged the students to challenge the authority of their parents saying that “every great

social reform movement started with young people.”

The letter then provided a list of ways she wanted to the school community to get involved in her anti-racism initiative.

The superintendent suggested that students and their parents join a Black Lives Matter chapter and attend a local protest.

Her letter also recommended her schools’ families make financial contributions to the American Civil Liberties Union (ACLU) or National Association for the Advancement of Colored People (NAACP) and said they should get involved in the Innocence Project.

The letter was not well-received by many who live within the Leland Public Schools’ district.

Joan Ursu, whose four children graduated from Leland High School, sent a letter to the superintendent and the members of the school board that questioned who had authorized Long to make her personal position on race relations the guiding principle for the entire school system.

“While you do make it clear in your opening paragraph that you are providing the community your ‘position’ on the causes of ‘protests and demonstrations,’ you go on to state that the opinions expressed in your letter are, de facto, those of the International Baccalaureate program,” Ursu wrote.

“Perhaps this is entirely so,” she continued in her letter. “If it is, I can say with confidence that this is news to many parents in the Leland Public School system and cause for serious questioning

on what, exactly, the IB program really is and whether they want their children involved in it. You should know that in explanations given to the community over the years about what the IB program entailed, it had never been posited that the ‘position’ taken by the LPS superintendent would define the scope of learning and agenda for the upcoming academic year – particularly when that agenda involves controversial and evolving societal issues.”

“Presumably, the board authorized your letter before it was sent and they are in agreement with you that the ‘position’ of the superintendent forms the basis for the scope of learning for the IB program in any academic year. Again, this is news to many of us in the LPS community and we would ask the board to respond and clarify,” Ursu added.

The members of the Leland school board were copied on the letter sent to Long.

Ursu then went on to call the tone of the letter itself “insulting” and revealed that one of her children whom she raised in the Leland school system is black.

“On a personal level, I was not at all prepared for what your letter conveyed,” this mother wrote. “While I am here only speaking for myself, I find that the language used and the tone itself insulting -- painting with a broad brush the idea that those in our community, whom you acknowledge at the outset you do not know, are racist and ‘privileged’ by virtue of our skin color alone. It is beyond insulting. It is untrue.”

“Again, speaking only for my family, we have experienced the love for a child without regard to color,” she continued.

“She is as much a part of our family as our children born to us. We love her blackness. But the color of her skin does not define her.”

Ursu went on to say her daughter’s accomplishments were earned on her merit and not her color.

“Your focus on ‘racism and injustice’ is not the experience of all people of color, no matter how earnestly you believe it is,” she told the superintendent. “This obsession with reducing people to their skin color is abhorrent to me. And forcing that worldview onto children in the school environment, even more so.”

Ben LaCross, a business owner in the school district, called the timing of the new superintendent’s letter to the school community “peculiar.”

LaCross told Michigan Capitol Confidential that two weeks before Long sent out that letter, the school board voted to eliminate all Spanish language education, despite the fact 10 percent of the school community is Hispanic.

He said he wife was the senior Spanish teacher and got laid off when that decision was made, but then the school district turned around and hired a part-time elementary school teacher to replace her.

LaCross said the move made him question Long’s commitment to advancement for the entire black, indigenous, people of color (BIPOC) community despite what she said in her letter addressing racism.

Long didn’t respond to an email seeking comment. ■

*The original version of this story was posted online on July 25, 2020 and is available at [MichCapCon.com/27801](https://michcapcon.com/27801).*

## Whitmer Moving The Goal Posts On Why The Persistent Lockdowns?

*Hospitalizations dramatically lower, but on July 29, the governor reimposed previously lifted restrictions*

BY STAFF

When Gov. Gretchen Whitmer locked down the state of Michigan with a “stay-at-home” executive order on March 23, she gave this rationale:

“This will be temporary,” Whitmer said at her March 23 press conference. “This intervention is it important to buy time so we can create surge capacity in our hospitals, so we can ramp up testing, and develop therapeutic drugs that may lower hospitalization and fatality rates.”

By April 17 there were 3,634 COVID-19 patients hospitalized in Michigan.

As of July 30, there were 727 individuals in Michigan hospitals for COVID-19, according to the state database. The average hospital bed occupancy rate in Michigan was 74%.

Yet, on July 29, when Whitmer ordered all bars closed for indoor service and limited

indoor gatherings to 10 people or less, she did not mention the dramatic decline in hospitalizations in her press release.

“As we see COVID-19 cases continue to rise, Michiganders cannot afford to drop our guard. We must take every step possible to save lives, protect the brave men and women on the front lines, and avoid overwhelming our health care system while we continue to combat COVID-19,” Whitmer said. “After seeing a resurgence in cases connected to social gatherings across the state, we must further limit gatherings for the health of our community and economy. By taking these strong actions, we will be better positioned to get our children back into classrooms and avoid a potentially devastating second wave.” ■

*The original version of this story was posted online on Aug. 2, 2020 and is available at [MichCapCon.com/27831](http://MichCapCon.com/27831).*



## Politicians' Extreme Social Distancing Rhetoric Just Party Deep?

BY TOM GANTERT

On June 20, the health director for the city of New Orleans sent out a warning to people who have parties that may violate social distancing rules during the COVID-19 pandemic by, for example, not requiring guests to wear masks.

Dr. Jennifer Avegno said that party hosts should pick out the seven people (out of 100 guests) they are sentencing to death.

“Right now our fatality rate of known cases is stubbornly stuck at 7%,” Avegno wrote in a June 20 press release. “If you are planning a party for 100 people, look around and decide which 7 of them you would be comfortable sentencing to death.”

As the epidemic wears on, government authorities who are frustrated that people are not following their rules sometimes issue statements tinged with hyperbole, as with the New Orleans official. In Michigan it usually involves Gov. Gretchen Whitmer's executive orders on social distancing.

While Whitmer has said that her decisions are not politically motivated, some officials' criticisms of certain social distancing violators appears to be very political.

Which raises questions about the seriousness of some politicians who have



been especially strident on the importance of social distancing.

For example, in Royal Oak, City Commissioner Kim Gibbs was accused of not social distancing when she attended an anti-lockdown protest in Lansing in April.

Royal Oak Mayor Michael Fournier asked Gibbs to resign. Fournier is a Democrat and Gibbs is a Republican.

“From what I see you broke the law and willfully violated social distancing measures putting our families and neighbors at risk,” Fournier wrote in an email to Gibbs,

according to the Detroit Free Press. “Your actions will prolong quarantine and add to everyone's economic hardships. Your comments to the press are beyond ignorant and show zero empathy for those on the front lines fighting this virus and those who have succumb to it. None of your spin-doctors will save you from your irresponsible actions and words. I will not be responding to anymore of your nonsense. This is about life and death. ... Your potentially unlawful and reckless actions have put more of our residents at risk of death.”

The life-and-death importance of social distancing seemed to fade, however during the events following George Floyd's killing by a Minneapolis police officer.

Instead of warning protesters about the dangers of not social distancing, at least two prominent Michigan officials posted photos of themselves violating social distancing protocols while attending George Floyd demonstrations.

Whitmer, a Democrat, and U.S. Rep. Fred Upton, a Republican, both posted pictures on Facebook of themselves violating social distancing rules at demonstrations.

The extreme rhetoric has also not worn well in the light of recent experience. In the weeks after a statewide stay-at-home executive order in Michigan was lifted, and after widespread anti-police demonstrations occurred with little apparent social distancing, the number of daily new cases has risen. The number of new COVID-19 cases exceeded 50,000 nationally on several days in July, nearly double the number in April, while daily deaths have fallen to a fraction of their earlier levels. ■

*The original version of this story was posted online on July 8, 2020 and is available at [MichCapCon.com/27713](http://MichCapCon.com/27713).*



## MichiganVotes.org

A sampling of proposed state laws, as described on [MichiganVotes.org](https://MichiganVotes.org).

### House Bill 5367

#### Impose paint tax

Introduced by Rep. Rachel Hood (D)

To impose a 25 cent per gallon excise tax “on the privilege of selling architectural paint,” which is defined as “interior and exterior architectural coatings sold in containers of 5 gallons or less... (that do) not include industrial coatings, original equipment coatings, or specialty coatings.”

### Senate Bill 763

#### Ban utility use of fossil fuels or nukes to generate electricity

Introduced by Sen. Stephanie Chang (D)

To prohibit Michigan utilities from using fossil fuels or nuclear power to generate electricity beginning in 2050, and empower state regulators to make case by case exceptions for particular companies.

### House Bill 5577

#### Revise pet store and breeder construction requirements

Introduced by Rep. Darrin Camilleri (D)

To specify in detail what constitutes “adequate shelter” for a dog in a law that makes it unlawful to not provide adequate care to an animal that is under a person's custody. The bill would also make it unlawful to leave an unattended dog outside without shelter during “adverse environmental conditions” as it defines these, or fail to take the dog in the case of an “emergency evacuation.”

### House Bill 5466

#### Require probable cause for official asking to see hunting, fishing license

Introduced by Rep. Steven Johnson (R)

To require a law enforcement, conservation or tribal law enforcement officers to have probable cause to believe that the individual is committing a violation before asking to see his or her hunting, fur harvester or fishing license.

### Senate Bill 771

#### End giving “corporate welfare” subsidies in secret

Introduced by Sen. Jim Runestad (R)

To repeal secrecy provisions that have been used by the agency in charge of selecting businesses and developers to receive state subsidies (the “Michigan Strategic Fund” and its “Michigan Economic Development Corporation” subsidiary) as a way to avoid disclosing the value of each recipient's taxpayer-funded subsidies under a “Michigan Economic Growth Authority” law. New subsidies from this program have been suspended but hundreds of millions in multi-year grants promised in the past are still being paid.

### House Bill 5507

#### Cut state income tax

Introduced by Rep. Brad Paquette (R)

To cut the state income tax rate from the current 4.25% to 4.15% in 2021, 4.05% in 2022, 3.95% in 2023, and 3.9% starting in 2024.

### Senate Bill 831

#### Create women's prison oversight committee

Introduced by Sen. Erika Geiss (D)

To create a state women's prison oversight advisory committee comprised of political appointees representing various groups and interests.

### House Bill 5538

#### Authorize 15 years for driver killing someone while on phone

Introduced by Rep. Bradley Slagh (R)

To make it a felony punishable by up to 15 years in prison to cause the death of another by using a wireless telephone while operating a motor vehicle; causing an injury would be a misdemeanor with a sentence up to one year.

### House Bill 5790

#### Ban gun dealers limiting ammo sales to gun buyers

Introduced by Rep. Leslie Love (D)

To prohibit a federally licensed firearms dealer from requiring an individual to purchase a firearm as a condition of selling him or her any ammunition, subject to a civil fine of up to \$1,000.