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September 20, 2021

The Honorable Craig Fishel
Missouri House of Representatives
State Representative
Room 300
201 West Capitol Avenue
Jefferson City, MO 65101
Craig.Fishel@house.mo.gov

Sent via Electronic Mail and U.S. Mail

Re: Sunshine Law Request
Dated: September 1, 2021
Received: September 8, 2021

Dear Representative Fishel:

This letter will respond to your letter which was received by me on September 8, 2021, though your letter was dated September 1, 2021. Your letter makes a request pursuant to the Missouri Sunshine statute, Section 610.010 *et seq.*, RSMo and requests the following:

“I request that you make available to me the following records generated by or in the possession of Springfield Public Schools employees and/or contract employees as listed below:

1. **All documents relating to Springfield Public Schools teacher and/or staff, including contract employees, Professional Development Training (for school years 2018-19; 2019-20 and 2020-21), Student Curriculum (for school years 2018-19; 2019-20 and 2020-21) including but not limited to the following terms:**
 - A. **Critical Race Theory or Critical Theory**
 - B. **1619 Project**
 - C. **Black Lives Matter**
 - D. **Diversity, Equity and Inclusion**
 - E. **Culturally Responsive Education**
 - F. **Implicit Bias**
 - G. **Intersectionality**
 - H. **Systemic Racism**

- I. Restorative Justice
- J. Whiteness, white privilege, white fragility
- K. Oppression Matrix, oppressor, oppressed
- L. Spirit Murder
- M. Antiracism or racism
- N. Collective Guilt
- O. Affinity Spaces
- P. Disparate Impact Theory
- Q. Colorism
- R. Microaggression
- S. Social Justice
- T. Culturally Responsive Curriculum Scorecard
- U. Teaching Tolerance
- V. Learning for Justice

- 2. Any documents and materials from or relating to the **Pulitzer Center** or the **Zinn Education Project** and the **Southern Poverty Law Center.**”

We have carefully reviewed your Request and we believe that it requests that the District provide you with copies of the following Open Public Records:

- 1. **All Open Public Records relating to Professional Development Training for employees of the Springfield Public Schools (including teachers, staff and contract employees) for school years 2018-19; 2019-20 and 2020-21 which use any of the terms set out in Request 1, subparagraphs A through V of your Sunshine Request.**
- 2. **All Open Public Records which constitute approved Student Curriculum for students of the Springfield Public Schools for school years 2018-19; 2019-20 and 2020-21 which use any of the terms set out in Request 1, subparagraphs A through V of your Sunshine Request.**
- 3. **Any open public records which were received from or sent to the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center.”**

Please let me know immediately if you believe we have not fairly captured the substance of your Sunshine request.

In order to be subject to disclosure under the Missouri Sunshine Law, documents must constitute “public records” of the “public governmental body.” In the case of the School District of Springfield, R-12 (“District”), the “public governmental body” is the District’s Board of Education. The term “public records” is defined in Section 610.010(6) RSMo. as follows:

(6) “Public record,” *any record*, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private

contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as describe in this subdivision shall be retained by the public governmental body in the same manner as any other public record." [emphasis added]

Responses to Your Specific Requests

1. Specific Exceptions to All Requests:

The District will provide you with Open Public Records which meet your requests. However, the District will not provide you with documents which constitute Closed Public Records pursuant to Section 610.021 RSMo, including but not limited to the following Closed Public Records:

To the extent that any of the Public Records you have requested contain personally identifiable information concerning students or their parents, such records are closed public records pursuant to Section 610.021(6) and (14) RSMo, which will require the District to redact, if possible, such closed information from the public record before providing them to you.

To the extent that any of the Public Records you have requested involve the hiring, firing, disciplining or promoting of particular employees by the Board of Education when personal information about the employee is discussed or recorded, are closed records pursuant to Section 610.021(3) RSMo, (except to the extent that such records were published by the District) which will require the District to redact, if possible the closed information from the public record before providing them to you.

To the extent that any of the Public Records you have requested contain personally identifiable information concerning District employees (other than their names, positions, salaries or lengths of service), such records are closed public records pursuant to Section 610.021(13) RSMo, which will require the District to redact, if possible, such closed information from the public record before providing them to you.

To the extent that any of the Public Records you have requested constitute communications between the District, Board of Education and the District's attorneys or their staff, such public records constitute attorney client privileged communications and are closed public records pursuant to Section 610.021(1) and (14) RSMo. Any such closed public records will not be provided to you.

To the extent that any of the Public Records you have requested constitute confidential or

privileged communication between the District, its Board of Education and its auditor, such communications are closed public records pursuant to Section 610.021(17) RSMo. Any such closed public records will not be provided to you.

To the extent that any of the Public Records you have requested constitute specific information concerning the content of any closed meeting of the District's Board of Education, such communications are closed public records pursuant to Section 610.022 RSMo. Any such closed records will not be provided to you.

To the extent that any of the public records you have requested constitute or contain information which is protected from disclosure by law pursuant to Section 610.021(14) RSMo, including but not limited to information covered by the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and Missouri Law, including Section 211.321.3 RSMo, other State and Federal privacy statutes. Any such closed public records will be redacted, if possible.

2. Responses To Requests:

Request No. 1 – All Open Public Records relating to Professional Development Training for employees of the Springfield Public Schools (including teachers, staff and contract employees) for school years 2018-19; 2019-20 and 2020-21 which use any of the terms set out in Request 1, subparagraphs A through V of your Sunshine Request.

Response: Subject to the Specific Exceptions above, we believe that the District has public records which may be responsive to this Request. The School District of Springfield, R-12 employs more than two thousand three hundred (2,300) certificated employees and more than that number of support staff. Training materials for all of these employees are maintained (or may have been copied) to at least five server types: (1) the Canvas Learning Management System; (2) the Staff Google Drive; (3) District File Shares; (4) Local Computer Hard Drives; and, (5) Email Archives.

The cost for the search, retrieval and processing of these Open Public Records is set out below,

Request No. 2 – All Open Public Records which constitute approved Student Curriculum for students of the Springfield Public Schools for school years 2018-19; 2019-20 and 2020-21 which use any of the terms set out in Request 1, subparagraphs A through V of your Sunshine Request.

Response: Subject to the Specific Exceptions above, we believe that the District has public records which may be responsive to this Request. The cost for the search, retrieval and processing of these Open Public Records is set out below.

The School District of Springfield, R-12 has around 25,000 students. Curricular materials for all of these employees are maintained (or may have been copied) to at least five server types: (1) the Canvas Learning Management System; (2) the Staff Google Drive; (3) District File Shares; (4) Local Computer Hard Drives; and, (5) Email Archives.

The cost for the search, retrieval and processing of these Open Public Records is

set out below.

Request No. 3 – Any open public records which were received from or sent to the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center.”

Response: Subject to the Specific Exceptions above, we believe that the District may have public records which may be responsive to this Request. If such public records exist, they will be in the following District servers: (1) the Canvas Learning Management System; (2) the Staff Google Drive; (3) District File Shares; (4) Local Computer Hard Drives; and, (5) Email Archives.

The cost for the search, retrieval and processing of these Open Public Records is set out below.

3. Fees for Search, Retrieval and Processing of Requested Public Records:

Consistent with the Missouri Sunshine Statute, including Section 610.026 RSMo, and the Courts of the State of Missouri, the following fees will be charged for the search, retrieval and processing of the public records requested herein. It is specifically noted that the District does not charge fees to persons who seek public records from the District pursuant to the Missouri Sunshine Statute for work performed by an attorney. All search, retrieval, redacting and processing of requested public records is performed by District employees who are not attorneys.

(1) The Canvas Learning Management System – Each school year, District personnel load approximately 10,000 Canvas courses on this System. These courses often have hundreds of pages, assignments, quizzes and discussion posts. The cost estimates for the search, retrieval and redaction of the Open Public Records from the Canvas System is as follows:

A. Cost for Search Only – The District’s IT Department estimates that it will take 80 hours per 1,000 courses searched at an hourly cost of \$29.75 (lowest qualified IT employee hourly cost) or \$2,380 per 1000 courses to search Canvas. This cost does not include the additional cost to retrieve and redact any Open Public Records that have been found by the search. **Search Deposit:** \$2,380

B. Cost for Retrieval and Redaction – Once the search has been completed, we will advise you of the result. You will have the option to have the District retrieve and redact (if necessary) any Open Public Records located during the search process. The hourly cost for Retrieval and Redaction of these Open Public Records is \$29.75 (lowest qualified IT employee hourly cost) or \$2,380 per 1000 documents retrieved.

(2) The Staff Google Drive – The IT Department will search the Staff Google Drive through the Google Vault discovery tool based on the search terms provided. The cost estimates for the search, retrieval and redaction of the Open Public Records from the Staff Google Drive is as follows:

A. Cost for Search Only – The District’s IT Department estimates that

it will take 10 hours to search the Staff Google Drive at an hourly cost of \$48.50 (lowest qualified IT employee hourly cost) or \$485.00. **Search Deposit:** \$485.00

B. Cost for Retrieval and Redaction – Once the search has been completed, we will advise you of the result. You will have the option to have the District retrieve and redact (if necessary) any Open Public Records located during the search process. The cost for Retrieval and Redaction of these Open Public Records is 120 hours per 1,000 documents retrieved at an hourly rate of \$36.18 (lowest qualified IT employee hourly cost) or \$4,341.60 per 1000 documents retrieved and redacted.

(3) District File Shares – The IT Department will search the District File Shares for key terms in the title of documents (“Title Search”) and/or a manual review of individual documents to search for key terms in the content of documents (“Manual Search”). The cost estimates for the search, retrieval and redaction of the Open Public Records from the District File Shares is as follows:

A. Cost for Title Search Only – The District’s IT Department estimates that it will take 20 hours to perform a Title Search of the District File Shares at an hourly cost of \$36.18 (lowest qualified IT employee hourly cost) or \$723.60. **Search Deposit:** \$723.60

B. Cost for Manual Search Only – The District’s IT Department estimates that it will take 30 hours per 1000 documents to perform a Manual Search of the District File Shares at an hourly cost of \$36.18 (lowest qualified IT employee hourly cost) or \$1,085.40 per 1000 documents. **Search Deposit:** \$1,085.40.

C. Cost for Retrieval and Redaction – Once the search has been completed, we will advise you of the result. You will have the option to have the District retrieve and redact (if necessary) any Open Public Records located during the search process. The cost for Retrieval and Redaction of these Open Public Records is 120 hours per 1,000 documents retrieved at an hourly rate of \$36.18 (lowest qualified IT employee hourly cost) or \$4,341.60 per 1000 documents retrieved and redacted.

(4) Local Computer Hard Drives – The IT Department estimates that the District has around 3,500 computers that are being used by staff. In order to search these computers, the IT Department will perform a Title Search or a Manual Search. The cost estimates for the search, retrieval and redaction of the Open Public Records from Local Computer Hard Drives is as follows:

A. Cost for Title Search Only – The District’s IT Department estimates that it will take 2 hours per device for a title search at an hourly cost of \$24.32 (lowest qualified IT employee hourly cost) or \$170,240.00. **Deposit:** \$170,240.00.

B. Cost for Manual Search Only – The District’s IT Department estimates that it will take 30 hours per 1000 documents at an hourly cost of

\$24.32 (lowest qualified IT employee hourly cost) or \$729.60 per 1000 documents. **Search Deposit:** \$729.60.

C. Cost for Retrieval and Redaction – Once the search has been completed, we will advise you of the result. You will have the option to have the District retrieve and redact (if necessary) any Open Public Records located during the search process. The cost for Retrieval and Redaction of these Open Public Records is 120 hours per 1,000 documents retrieved at an hourly rate of \$24.32 (lowest qualified IT employee hourly cost) or \$2,918.40 per 1000 documents retrieved and redacted.

(5) Email Archive – The IT Department will search the District's Email Archive for each search term. The cost estimates for the search, retrieval and redaction of the Open Public Records from the Staff Google Drive is as follows:

A. Cost for Search Only – The District's IT Department estimates that it will take 10 hours to search the Email Archive at an hourly cost of \$36.18 (lowest qualified IT employee hourly cost) or \$361.80. **Search Deposit:** \$361.80.

B. Cost for Retrieval and Redaction – Once the search has been completed, we will advise you of the result. You will have the option to have the District retrieve and redact (if necessary) any Open Public Records located during the search process. The cost for Retrieval and Redaction of these Open Public Records is 120 hours per 1,000 documents retrieved at an hourly rate of \$36.18 (lowest qualified IT employee hourly cost) or \$4,341.60 per 1000 documents retrieved and redacted.

Please let us know whether you wish the District to search for any of the possible public records. If so, we will need to have a deposit for the amount required before we begin the search. If you have any questions concerning the fees above, please let me know.

Thank you for your request.

Sincerely,



Tammi Harrington
District Records Custodian

cc: Ransom A Ellis, III