

**IN THE CIRCUIT COURT OF GREENE COUNTY
STATE OF MISSOURI**

STATE OF MISSOURI ex rel.)	
ERIC S. SCHMITT,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
SCHOOL DISTRICT OF)	
SPRINGFIELD, R-12,)	
)	
Defendant.)	

PETITION

1. Parents have a right to know what their children are being taught in school.

2. Springfield Public Schools has violated Missouri’s Sunshine Law to avoid transparency on critical race theory in student curriculum and teacher training materials.

3. Critical race theory has been part of teacher training materials in Springfield Public Schools for at least two years.

4. Springfield Public Schools provides outrageous, unlawful, and unaffordable fee estimates for Sunshine Law requests so that it does not have to produce records to members of the public.

5. Springfield Public Schools must be held accountable under the Sunshine Law so that it may be held accountable by parents.

6. The Attorney General brings this action on behalf of the State of Missouri to enforce the Sunshine Law and to ensure that parents have access to Springfield Public Schools' records as required by law.

Critical Race Theory and Springfield Public Schools' Staff

7. Springfield Public Schools has publicly acknowledged that they are instructing teachers and staff on critical race theory.

8. In a December 2020 report, Springfield Public Schools reported that it had required the Board of Education, Senior Leadership Team (consisting of building principals, department directors, assistant directors, and coordinators), and Equity Champions (internal staff at school buildings who are also tasked with leading equity efforts and initiatives) to participate in a one-day training from the Facing Racism Institute as part of the 2019 Fall Leadership Series. Springfield Public Schools, *End of Year Report Focus Area 5: Goal 1 Strategy Plan Update*, Dec. 8, 2020, p. 8, available at

[https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/\\$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf).

9. According to Springfield Public Schools, one of the Facing Racism Institute's training objectives is to "introduce the components of critical race theory from educational research with applications to the district, . . ." *Id.*

10. Springfield Public Schools reported that the “training objectives were addressed through the introduction of the following content areas: . . . an introduction to a critical race theory perspective, including empirical analysis; . . .” *Id.*

11. Approximately 170 staff members received the training that included critical race theory. *Id.*

12. In Fall 2020, Springfield Public Schools required all staff members to participate in equity training. Springfield Public Schools, *Community Report Focus Area 5: Goal 1 Mid-Year Strategic Plan Update*, May 18, 2021, p. 4, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/\\$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf).

13. More than 3,500 staff members participated in the mandatory equity training. *Id.*

14. One of the training’s goals was “[t]o create shared understanding” around “Complex issues of Systemic Racism and Xenophobia – And how we should address it in our school system.” Springfield Public Schools, *Fall District-Wide Equity Training*, Fall 2020, p. 5, attached as Exhibit A.

15. According to the training, participants would “receive tools on how to become Anti-Racist educators, leaders and staff members at SPS.” *Id.* at p. 8.

16. Springfield Public Schools presented all attendees with an “Oppression Matrix,” and upon information and belief, required attendees to identify where they fall on the matrix. *Id.* at p. 17.

17. The Oppression Matrix identified as “Privileged Social Groups” all “White People,” “Male assigned at birth,” and “Protestants,” among others. *Id.*

18. The Oppression Matrix is depicted below as Figure 1:

TYPE OF OPPRESSION	PRIVILEGED SOCIAL GROUP	BORDER SOCIAL GROUPS	OPPRESSED SOCIAL GROUPS	SOCIAL IDENTITY CATEGORY
RACISM	White People	Biracial People	Asian, Black, Latina/o, Native People	Race
SEXISM	Male assigned at birth	Intersex People	Female assigned at birth	Sex
TRANSGENDER OPPRESSION	Gender conforming CIS- men and women	Gender ambiguous CIS- men and women	Transgender, Genderqueer, Intersex People	Gender
HETEROSEXISM	Heterosexuals	Bisexuals	Lesbians, Gay men	Sexual Orientation
CLASSISM	Rich, Upper Class People	Middle Class People	Working Class, Poor People	Class
ABLEISM	Able-bodied People	People with Temporary Disabilities	Disabled People	Ability/Disability
RELIGIOUS OPPRESSION	Protestants	Roman Catholic (historically)	Jews, Muslims, Hindus, Sikhs	Religion
AGEISM/ADULTISM	Adults	Young Adults	Elders, Young People	Age

19. The presentation included discussion of “White Supremacy,” which Springfield Public Schools defined as follows:

White supremacy captures the all-encompassing centrality and assumed superiority of people defined and perceived as white. Many people, especially older white people, associate the term white supremacy with extreme and explicit hate groups. However, for sociologists, white supremacy is a highly descriptive term for the culture we live in; a culture which positions white people and all that is associated with them (whiteness) as ideal.

Id. at p. 20.

20. Springfield Public Schools also presented attendees with a White Supremacy chart, which contained examples of “Overt White Supremacy” and “Covert White Supremacy.” *Id.* at p. 22.

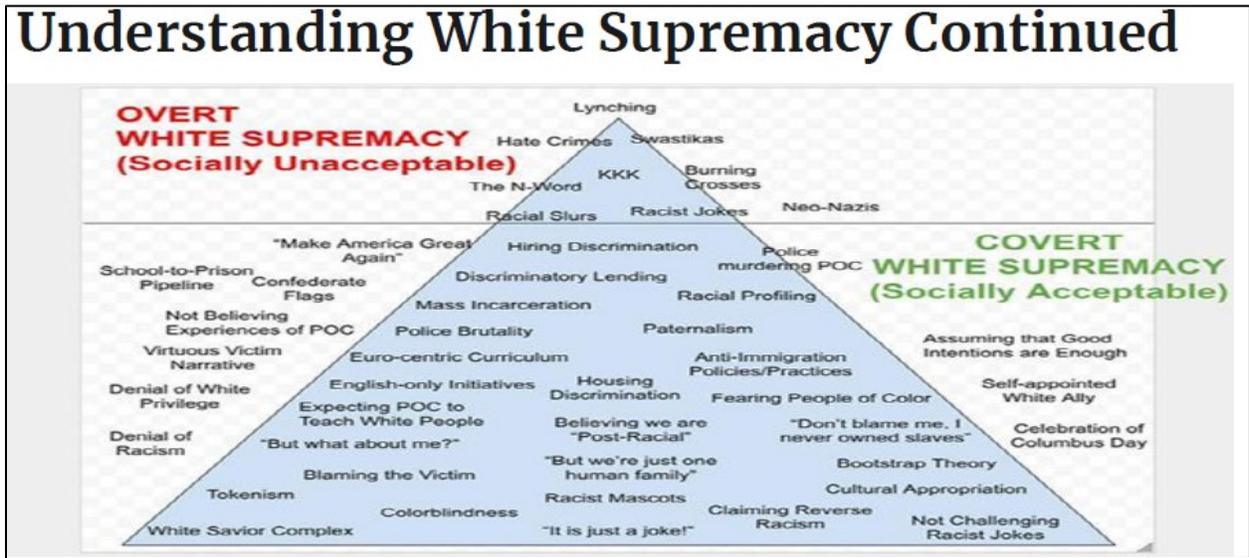
21. Examples of “Covert White Supremacy” include “education funding from property tax,” “calling the police on black people,” and “All Lives Matter.” *Id.*

22. The White Supremacy chart is depicted below as Figure 2:



23. A White Supremacy figure in a separate Fall 2020 presentation to Springfield Public Schools’ staff identified additional examples of covert white supremacy, such as “Make America Great Again,” “police murdering POC [People of Color],” and “celebration of Columbus Day.” Springfield Public Schools, ELT Growth Activity, Oct. 6, 2020, p. 7, attached as Exhibit B.

24. The Expanded White Supremacy figure is depicted below as Figure 3:



25. More than one out of six participants who responded to a survey felt uncomfortable completing the mandatory equity training, and almost one out of four participants were not satisfied with the equity training. Springfield Public Schools, *Community Report Focus Area 5: Goal 1 Mid-Year Strategic Plan Update*, May 18, 2021, p. 4, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/\\$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf).

26. In Fall 2020, Springfield Public Schools provided training that identified as racist statements such as “People are just people; I don’t see color,” and “America is the land of opportunity, built by rugged individuals, where anyone with grit can succeed if they just pull up hard enough on their bootstraps.” Springfield Public Schools, *ELT Growth Activity*, Sept. 1, 2020, at 8, attached as Exhibit C.

27. Upon information and belief, ELT is Springfield Public Schools' Executive Leadership Team.

28. Springfield Public Schools also forced the Executive Leadership Team to watch a video entitled, "America Was Built on White Supremacy. It Won't Go Away Until We Redesign the System." Springfield Public Schools, ELT Growth Activity, Nov. 3, 2020, p. 4, attached as Exhibit D.

Critical Race Theory and Springfield Public Schools' Students

29. Springfield Public Schools has revealed very little about how critical race theory is being taught to students.

30. The Springfield Public Schools' Chief Equity and Diversity Officer has claimed that the need for social justice in K-12 education today equals or exceeds the need during times of segregation: "In 2020, with four years of an administration that has focused on school choice, the restriction of diversity training for state and or governmental entities like schools and threatening funding of schools who wish to expand their curriculum to become culturally consciousness [sic] and other dangerous tactics to stop inclusive learning for students, the role of social justice in K-12 public education is just as important as it was during segregation if not more." Katie C. Kensinger, *Perceptions of Southwest Missouri Public School K-12 Teachers and Building Principals in Regard to Preparedness of Culturally Responsive Teaching*, doctoral dissertation (2021), p. 24, available at <https://www.proquest.com/docview/2572537170?pq-origsite=gscholar&fromopenview=true>.

31. Not until pressed by the Attorney General’s Office did the Springfield Public Schools admit that they have provided equity training to all students in the GO CAPS program for the past three school years. Letter from Springfield Public Schools’ Records Custodian to the Attorney General’s Office, Nov. 5, 2021 (“Springfield Public Schools’ Fee Estimate to AGO”), p. 5, attached as Exhibit E.

32. GO CAPS is a program for juniors and seniors to “test drive their futures” by providing “students to access real-world, career-oriented experiences” in business and entrepreneurship; medicine and health care; IT and software solutions; engineering and manufacturing; and teacher education. Springfield Public Schools, GO CAPS Program, available at <https://www.sps.org/gocaps>.

33. The 2020 equity learning presentation for GO CAPS asked students to “analyze your identity and how it influences your beliefs, behaviors and experiences” by creating an identity map, taught students about unconscious bias, stereotypes, and micro-aggression, and trained students on how to interrupt, question, and educate other students and supervisors on racial, national origin, and sexual orientation issues. Springfield Public Schools, GO-CAPS Equity Learning 2020, attached as Exhibit W.

34. Springfield Public Schools represents that only one book in the entire school system curriculum contains a single reference to critical race theory or related words (1619 Project, whiteness, anti-racism, systemic racism), and that the single reference “had nothing to do with CRT.” Ex. E, Springfield Public Schools’ Fee Estimate to AGO, p. 5.

35. Springfield Public Schools’ representation is not credible in light of the emphasis Springfield Public Schools has placed on critical race theory training for staff and in light of other publicly available materials.

36. In April 2020, Springfield Public Schools’ Equity and Diversity Advisory Council issued a final report that made recommendations that included “Implementation of culturally relevant teaching strategies” and “Implementation of Identity and Equity training for all students (including Elementary, Middle and High School) to enhance a student’s understanding of self and others through an equity lens.” Springfield Public Schools, *Equity and Diversity Advisory Council (EDAC) Final Report*, Apr. 2020, pp. 7, 11, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/BNQK57501FB9/\\$file/Equity%20and%20Diversity%20Advisory%20Council%20Final%20Report%20-%2004.14.20.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/BNQK57501FB9/$file/Equity%20and%20Diversity%20Advisory%20Council%20Final%20Report%20-%2004.14.20.pdf).

37. The Equity and Diversity and Learning Support teams designed a new diversity curriculum for first graders for Fall 2020, but the class was not held due to virtual school challenges and a “low number of students participating.” Springfield Public Schools, *End of Year Report Focus Area 5: Goal 1 Strategy Plan Update*, Dec. 8, 2020, p. 29, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/\\$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20-%20FINAL.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20-%20FINAL.pdf).

38. In December 2020, “[t]o continue the work to develop and deploy a culturally relevant curriculum for SPS,” the Equity and Diversity team pledged that

a work group would review “current academic curriculum and assist with the development and deployment process to make it more culturally relevant and provide professional learning opportunities to support the work.” Springfield Public Schools, *End of Year Report Focus Area 5: Goal 1 Strategy Plan Update*, Dec. 8, 2020, p. 31, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/\\$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf).

39. Six months later, Springfield Public Schools reported that it formed a “Culturally Relevant Curriculum Review” committee that was reviewing current academic curriculum. Springfield Public Schools, *Community Report Focus Area 5: Goal 1 Mid-Year Strategic Plan Update*, May 18, 2021, p. 15, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/\\$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf).

40. In this committee, “Discussions focused on current culturally relevant content in elementary and secondary curricula as they relate to English Language Arts and Social Studies.” *Id.* at p. 16.

41. In Fall 2020, “the curriculum adoption committees out of the Department of Learning Support implemented a Culturally Responsive Scorecard to evaluate prospective resources,” which was developed by The Metropolitan Center for Research on Equity and the Transformation of Schools (NYU Metro Center). *Id.*

42. The Culturally Responsive Scorecard believes a need exists for social justice evaluation of all core curriculum, including math curriculum. For example, the Culturally Responsive Scorecard explains: “Some people might be thinking, ‘surely math is neutral, apolitical, objective and factual, so how culturally responsive and sustaining can any textbook or curricula actually be?’ Part of the work required to use this scorecard will be accepting various explorations of who are mathematicians or scientists, and what ‘counts’ as science, technology, engineering, arts, and math, and why?” NYU Metropolitan Center for Research on Equity and the Transformation of Schools, *The Culturally Responsive-Sustaining STEAM Curriculum Scorecard*, 2021, available at https://steinhardt.nyu.edu/sites/default/files/2021-02/CRSE-STEAMScorecard_FIN_optimized%20%281%29.pdf.

43. The Culturally Responsive English Language Arts Scorecard defines curriculum broadly: “When public schools talk about curriculum, they often mean the whole package of learning goals and standards; units and lessons that lay out what teachers teach each day and week; assignments, activities and projects given to students; and books, materials, videos, presentations, and readings used in the class.” NYU Metropolitan Center for Research on Equity and the Transformation of Schools, *Culturally Responsive Curriculum Scorecard*, 2019, p. 4, available at <https://steinhardt.nyu.edu/sites/default/files/2020-12/CRE%20Scorecard%20Revised%20Aug%202020.pdf>.

44. According to the Culturally Responsive English Language Arts Scorecard, “Curricula that only reflect the lives of dominant populations – for examples, White people and culture, nuclear families, or able-bodied people – reinforce ideas that sideline students of color, linguistically diverse students, single parent/multi-generation/LGBTQ+ led families, and students with disabilities.” *Id.*

45. In Fall 2020, Springfield Public Schools reported that “the scorecard has been used to evaluate resources for K – 12 English Language Arts in FY21, and will be used in the future for other cycles and adoption processes.” Springfield Public Schools, *Community Report Focus Area 5: Goal 1 Mid-Year Strategic Plan Update*, May 18, 2021, p. 16, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/\\$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/C2ZT6775612F/$file/Focus%20Area%205%20Goal%201%20Mid-Year%20Report%20-5.18.21.pdf).

46. According to Springfield Public Schools in May 2021, “The work of the curriculum committee will carry on with deeper reviews of other districts that have instituted similar processes, as well as aligning the Culturally Relevant Scorecards with all current processes concerning reviews and purchases of curricula.” *Id.*

47. In addition, “representatives from the Equity and Diversity team will participate in upcoming curriculum reviews and adoption processes.” *Id.*

48. The high priority placed on equity and diversity is evident in Springfield Public Schools’ re-entry planning. In its re-entry plan to bring students back from COVID-19 lockdowns in Fall 2020, Springfield Public Schools prioritized equitable learning as Goal #3 of 4: “Provide equitable learning opportunities for under

resourced & under-represented students.” Springfield Public Schools, *Back to SPS: School Re-Entry Plan*, updated Aug. 26, 2020, p. 3, available at https://drive.google.com/file/d/1lDE5SdrLtp6ZOfkE_VlRmmz3fLcck2Lx/view.

49. Springfield Public Schools prioritized equitable learning over “provide clear communication” in its re-entry plan. *Id.*

50. Emphasis on changing curriculum comes straight from Springfield Public Schools’ strategic plan. Focus Area 5 included emphasis on culturally relevant curriculum by “review[ing] and expand[ing] the curriculum to reflect student identities, lived experiences, cultural history and significant contributions.” Springfield Public Schools, *Focus Area 5 – Equity and Diversity*, June 17, 2020, Strategy 5.1.4, available at <https://www.sps.org/Page/5123>.

Opposition to Critical Race Theory in Springfield Public Schools

51. Whistleblowers exposed critical race theory in Springfield Public Schools’ staff training in January 2021. Christopher F. Rufo, *Anti-Racism Comes to the Heartland*, CITY JOURNAL (Jan. 19, 2021), available at <https://www.city-journal.org/antiracism-comes-to-the-heartland>.

52. For months following this revelation, parents publicly opposed teaching critical race theory to students by testifying at school board meetings and demonstrating outside the meetings. *See, e.g.*, Claudette Riley, *Critical Race Theory Debate Dominates Springfield School Board Meeting*, SPRINGFIELD NEWS-LEADER (May 19, 2021), available at <https://www.news->

[leader.com/story/news/education/2021/05/19/springfield-mo-residents-debate-critical-race-theory-school-board-meeting/5150427001/](https://www.ozarksfirst.com/local-news/local-news-local-news/springfield-board-of-education-makes-changes-to-meetings/).

53. After apparently hearing from too many parents at school board meetings, the Springfield Public Schools began restricting public comments at meetings to only the first 10 people to register. Emilee Kuschel and Bailey Strohl, *Springfield Board of Education Makes Changes to Meetings*, OZARKS FIRST (Aug. 18, 2021), available at <https://www.ozarksfirst.com/local-news/local-news-local-news/springfield-board-of-education-makes-changes-to-meetings/>.

54. “I have never seen parents so upset . . . I have never ever, ever seen anything like what we’ve got out here today,” one parent observed. *Id.*

55. Two staff members subjected to the mandatory equity training filed suit against Springfield Public Schools for alleged violations of the First Amendment and employment conditions. *See Henderson et al. v. School District of Springfield R-12, et al.*, 6:21-cv-03219-JAM, Complaint Doc. 1 (W.D. Mo.) (Aug. 18, 2021).

Missouri’s Sunshine Law Exists to Provide Transparency

56. The Missouri Sunshine Law establishes the State’s public policy in favor of and commitment to open and transparent government. The Sunshine Law is codified at §§ 610.010 to 610.225, RSMo.

57. The Missouri Sunshine Law provides the public with critical tools to ensure that government remains transparent, honest, and efficient.

58. The Sunshine Law declares that it is the State of Missouri’s public policy that “meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public[.]” § 610.011.1, RSMo.

59. Pursuant to that clear public policy, “all public records of public government bodies shall be open to the public for inspection and copying[.]” § 610.011.2, RSMo.

60. Public governmental bodies are only permitted to charge fees for public records consistent with § 610.026, RSMo.

Springfield Public Schools’ Efforts to Avoid Transparency

61. Springfield Public Schools’ efforts to avoid transparency are best exemplified by a public announcement that the district has followed.

62. Following the public uproar about the mandatory staff equity training, Springfield Public Schools’ superintendent announced that training materials would no longer be released to the public.

63. Specifically, in a July 2021 interview, Dr. Grenita Lathan said that Springfield Public Schools would not release training materials to the public. Bonnie Bell, *Audio Feature: Springfield Schools Superintendent Dr. Grenita Lathan Answers Questions on Diversity and Equity Training and Critical Race Theory*, KWTO 93.3FM (July 16, 2021), available at <https://933kwto.com/springfield-schools-superintendent-grenita-lathan-answers-questions-on-diversity-and-equity-training-and-critical-race-theory/> (“Q: Since staff is making changes, whatever changes they are to the material that apparently had gotten out and was upsetting to people in the

community, since the changes are being made, is that something that the school system is going to then share with the public or can the public actually get those materials and read them to quell some of the concern?” Lathan: “No. And I’m saying no from a standpoint of, when we provide training to staff members, we’re providing for our staff and so that they are prepared to go out and educate children. And I think, like I said, sometimes I think things, messaging, gets out the wrong way. We will message what we are doing by sharing that at our board meeting.”).

64. Springfield Public Schools has received two Sunshine Law requests for training materials since Dr. Lathan announced that these materials would not be released to the public.

65. On both occasions, Springfield Public Schools provided outrageous fee estimates totaling tens of thousands to hundreds of thousands of dollars.

66. Although both Sunshine Law requests were identical, Springfield Public Schools provided completely different fee estimates.

67. Springfield Public Schools knew of its obligations under the Sunshine Law, including the obligation to not charge fees in excess of charges authorized by the Sunshine Law and the obligation to produce responsive records.

68. Springfield Public Schools knew of potential consequences if it were to violate those obligations under the Sunshine Law, which might include litigation and monetary penalties.

69. Springfield Public Schools has sought to avoid transparency to other requesters by providing excessive and unlawful fee estimates, not providing all responsive public records, and intentionally misreading requesters.

70. The Sunshine Law allows public records to be “furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester.” § 610.026.1(1), RSMo.

71. Even though parents have asked for fee waivers on records requests relating to training with critical race theory influence to provide “helpful information for concerned parents and community members,” Springfield Public Schools has informed them that it is their “practice per state statute (610.026) to charge for all Sunshine Law requests.” Emails between Springfield Public Schools’ Records Custodian and Springfield Parent, Feb. 9, 2021, pp. 1-2, 7-8, available at https://drive.google.com/file/d/1D01deMS1_PsHrdUaBIHVRo5FRL0s9Rso/view.

72. Springfield Public Schools has repeatedly violated the Sunshine Law, and a court order is needed to remind Springfield Public Schools of its transparency obligations.

Parties

73. Eric S. Schmitt is the duly elected Attorney General of Missouri.

74. Section 27.060 grants the Missouri Attorney General authority to:

institute, in the name and on the behalf of the state, all civil suits and other proceedings at law or in equity requisite or necessary to protect the rights and interests of the state, and enforce any and all rights, interests or claims against any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary; and he may also appear and interplead, answer or defend, in any proceeding or tribunal in which the state's interests are involved.

75. In addition, under § 610.027.1, RSMo, the Attorney General has authority to seek judicial enforcement of §§ 610.010 through 610.026.

76. Defendant School District of Springfield, R-12 ("Springfield Public Schools") is a public governmental body under § 610.010(4), RSMo.

77. As a public governmental body, Springfield Public Schools' records are subject to the provisions of Missouri's Sunshine Law.

Jurisdiction and Venue

78. This Court has subject matter jurisdiction over this action pursuant to §§ 610.027 and 610.030, RSMo; Missouri Supreme Court Rule 92; and Missouri Constitution Article V, § 14.

79. This Court has personal jurisdiction over Springfield Public Schools because Springfield Public Schools' principal place of business is in Greene County, Missouri.

80. Venue is proper in this Court under § 610.027.1, RSMo, as Springfield Public Schools' principal place of business is in Greene County, Missouri.

Count I
Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to the Attorney General's Office – deposit of non-copying charges

81. All preceding paragraphs are incorporated by reference.

82. Fees for copying public records and research time are set forth in § 610.026.1(1), and fees for providing access to various media are set forth in § 610.026.1(2).

83. Section 610.026.2 provides for the advance payment of copying fees: “Payment of such copying fees may be requested prior to the making of copies.”

84. The Sunshine Law makes no provision for the advance payment of any fees other than the copying fees expressly allowed under § 610.026.2.

85. By specifically allowing for a deposit for copying fees, but not for any other fees, the Sunshine Law does not permit a public governmental body to request a deposit for non-copying fees.

86. On October 5, 2021, the Attorney General's Office submitted a Sunshine Law request seeking records relating to critical race theory. *See* Sunshine Request from the Attorney General's Office to Springfield Public Schools (“AGO Sunshine Request”), Oct. 5, 2021, attached as Exhibit F.

87. The Attorney General's Office requested public records in electronic format if that format was available. *Id.* at p. 2.

88. The records requested by the Attorney General's Office are public records retained by Springfield Public Schools and are subject to the Sunshine Law.

89. Springfield Public Schools eventually provided a fee estimate that demanded an initial deposit of \$37,070.06 to process the request by the Attorney General's Office. *See* Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 6-7.

90. The Springfield Public Schools informed the Attorney General's Office that the deposit must be paid "[i]f the Attorney General wishes to have the District conduct a search for the key words" *Id.* at p. 6.

91. Springfield Public Schools did not provide an estimate for any copying charges. *Id.*

92. Springfield Public Schools did not request a deposit for any copying charges. *Id.*

93. Because it did not provide an estimate for any copying charges, under § 610.026.2, Springfield Public Schools could not lawfully demand a deposit before searching and retrieving responsive records.

94. Springfield Public Schools violated § 610.026.2 by demanding a deposit for items or services other than copies as a precondition to making public records available to the Attorney General's Office.

95. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.026.2 by demanding a deposit for items or services other than copies as a precondition to making public records available to the Attorney General's Office.

96. Upon information and belief, Springfield Public Schools demanded an outrageous deposit in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding advance payment of fees for items or services other than copies; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count II

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to the Attorney General's Office – deposit of non-search charges

97. All preceding paragraphs are incorporated by reference.

98. Even if Springfield Public Schools is allowed to request a deposit for non-copying charges, which it is not as set forth in Count I, Springfield Public Schools unlawfully requested deposits for non-search related activities.

99. In response to the Attorney General Office's request, Springfield Public Schools estimated it would cost \$727.50 to search the Staff Google Drive, and requested a deposit of \$727.50 for this search. Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 6-7.

100. Springfield Public Schools estimated it would cost \$194.00 to search the District File Shares, but requested an estimate of \$642.56 for this search, which was the estimated research and retrieval time and cost. *Id.* at p. 7.

101. Springfield Public Schools could not demand a deposit of \$642.56 for the estimated research and retrieval of records when it only was estimated to cost \$194.00 to conduct the search.

102. Springfield Public Schools did not provide an estimate to search the Canvas Learning Management System, and instead provided only an estimate to search, research, and retrieve public records of \$35,700. *Id.* at p. 6.

103. Upon information and belief, the cost to perform the search of the Canvas Learning Management System is much less than \$35,700.

104. Springfield Public Schools is aware that it should only ask for deposit of search fees, which is all it requested in its fee estimate to Representative Fishel, whose Sunshine Law request was substantively identical with the AGO's. Sunshine Request from Representative Fishel to Springfield Public Schools, Sept. 1, 2021 ("Fishel Sunshine Request"), attached as Exhibit G; Letter from Springfield Public Schools' Records Custodian to Representative Fishel, Sept. 20, 2021 ("Springfield Public Schools' Fee Estimate to Fishel"), pp. 5-7, attached as Exhibit H.

105. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.026.2 by demanding a deposit for research and retrieval of public records, rather than only the search for public records.

106. Upon information and belief, Springfield Public Schools demanded an outrageous deposit in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding a deposit for research and retrieval of public records, rather than only the search for public records; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count III

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to the Attorney General's Office – not using clerk

107. All preceding paragraphs are incorporated by reference.

108. In Springfield Public Schools' fee estimate to the Attorney General's Office, Springfield Public Schools based its estimates on costs of \$29.75 per hour to search for records in the Canvas Learning Management System, \$48.50 per hour to search for records in the Staff Google Drive, and \$48.50 per hour to search for records in the District File Shares. Ex. E, Springfield Public Schools' Fee Estimate to AGO, 6-7.

109. Springfield Public Schools also based its estimates on costs of \$29.75 per hour to research and retrieve records in the Canvas Learning Management System, \$36.18 to research and retrieve records in the Staff Google Drive, and \$36.18 to research and retrieve records in the District File Shares. *Id.*

110. The Attorney General's Office' Sunshine Request was substantively identical to a request that State Representative Craig Fishel submitted to Springfield Public Schools on September 1, 2021. *Compare* Ex. F, AGO Sunshine Request *with* Ex. G, Fishel Sunshine Request.

111. In its fee estimate to Representative Fishel, Springfield Public Schools identified the hourly charges for search, research, and retrieval as the "lowest qualified IT employee hourly cost." *See* Ex. H, Springfield Public Schools' Fee Estimate to Fishel, pp. 5-6.

112. Upon information and belief, the hourly rates provided by Springfield Public Schools to the Attorney General's Office also are for the "lowest qualified IT employee hourly cost."

113. Springfield Public Schools did not provide the hourly rate for the "employees of the body that result in the lowest amount of charges for search, research, and duplication time." § 610.026.1(1), RSMo.

114. Springfield Public Schools currently pays secretaries and clerks \$12.10 to \$23.53 per hour, based on the type of position and experience. Springfield Public Schools, 2021-2022 Salary Schedules, adopted June 21, 2021, p. 12 ("Springfield Public Schools' 2021-2022 Salary Schedules"), attached as Exhibit I.

115. Inventory clerks and library clerks are paid \$12.10 to \$17.55 per hour.

Id.

116. A District Level Secretary is paid \$14.02 to \$20.32 per hour. *Id.*

117. Upon information and belief, clerical employees such as clerks and secretaries are able to search for and retrieve public records requested by the Attorney General's Office.

118. Springfield Public Schools has not justified why an IT employee is needed to perform the research and retrieval of public records instead of a clerical employee.

119. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.026.2 by demanding payment for research and retrieval of public records by an IT employee instead of a clerical employee.

120. Upon information and belief, Springfield Public Schools demanded an outrageous deposit in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding payment for research and retrieval of public records by an IT employee instead of a clerical employee; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine

Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count IV

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to the Attorney General's Office – not using lowest-paid IT employee

121. All preceding paragraphs are incorporated by reference.

122. In Springfield Public Schools' fee estimate to the Attorney General's Office, Springfield Public Schools based its estimates on costs of \$48.50 per hour to search for records in the Staff Google Drive and the District File Shares. Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 6-7.

123. Upon information and belief, the \$48.50 per hour is based on Springfield Public Schools' representation of the "lowest qualified IT employee hourly cost."

124. A \$48.50 per hour fee means the employee is earning \$100,880 per year.

125. According to Springfield Public Schools' salary schedule, \$100,871 per year is the highest possible salary for an IT employee. Ex. I, Springfield Public Schools' 2021-2022 Salary Schedules, p. 15.

126. Network analysts and systems analysts make \$49,440 per year (\$23.77 per hour) to \$71,668 per year (\$34.46 per hour). *Id.*

127. In its fee estimate to Representative Fishel, Springfield Public Schools identified an IT employee who could search the local computer hard drives for \$24.32 per hour. Ex. H, Springfield Public Schools' Fee Estimate to Fishel, pp. 6-7.

128. More egregiously, Springfield Public Schools provided different hourly fee estimates for the same location search.

129. In its response to the Attorney General's Office, Springfield Public Schools sought \$48.50 per hour, the "lowest qualified hourly cost," to search the District File Shares. Ex. E, Springfield Public Schools' Fee Estimate to AGO, p. 7.

130. But in its response to Representative Fishel just weeks before, Springfield Public Schools sought \$36.18, the "lowest qualified IT employee hourly cost," to search the District File Shares. Ex. H, Springfield Public Schools' Fee Estimate to Fishel, p. 6.

131. Springfield Public Schools has not justified why the most senior IT position in its system must perform searches for the Attorney General's Office's requests, rather than lower-paid IT staff that it included in its estimates to Representative Fishel, and that are identified on the Springfield Public Schools' salary schedule.

132. Upon information and belief, lower-level IT staff are able to search for and retrieve public records requested by the Attorney General's Office.

133. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.026.2 by demanding payment for the highest-paid IT employee instead of a lower-paid IT employee.

134. Upon information and belief, Springfield Public Schools demanded an outrageous deposit in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding payment for the highest-paid IT employee instead of a lower-paid IT employee; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count V

Springfield Public Schools violated Section 610.023, RSMo, when it did not provide public records or an estimate for finding all responsive public records

135. All preceding paragraphs are incorporated by reference.

136. In Springfield Public Schools' fee estimate to the Attorney General's Office, Springfield Public Schools identified three locations it could search to find responsive public records: (1) Canvas Learning Management System; (2) Staff Google Drive; and (3) District File Shares ("Title Search"). Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 6-7.

137. In Springfield Public Schools' fee estimate to a substantively identical request by Representative Fishel submitted one month earlier, Springfield Public Schools identified five locations it could search to find responsive public records: (1) The Canvas Learning Management System; (2) Staff Google Drive; (3) District File

Shares (“Title Search” and “Manual Search”); (4) Local Computer Hard Drives; and (5) Email Archive. Ex. H, Springfield Public Schools’ Fee Estimate to Fishel, pp. 6-7.

138. Springfield Public Schools did not provide the Attorney General’s Office with the options of searching the Local Computer Hard Drives or the Email Archive, or the “Manual Search” of the District File Shares.

139. Upon information and belief, Springfield Public Schools did not intend to search for those areas for potentially responsive public records to answer the Attorney General’s Office’s request.

140. Upon information and belief, those areas were likely to include potentially responsive public records to the Attorney General’s Office’s request.

141. By not providing the Attorney General’s Office with all possible location searches, Springfield Public Schools was not providing the opportunity to search, retrieve, and produce all responsive public records.

142. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not providing the opportunity to search, retrieve, and produce all responsive public records.

143. Upon information and belief, Springfield Public Schools did not provide public records or the opportunity to search, retrieve, and produce all responsive public records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General’s Office requests that this Court enter a judgment in favor of the Attorney General’s Office: (a) declaring that Springfield Public Schools violated § 610.023 by not providing the opportunity to search, retrieve,

and produce all responsive public records; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count VI

Springfield Public Schools violated Section 610.023, RSMo, when it improperly denied that other responsive staff training public records existed

144. All preceding paragraphs are incorporated by reference.

145. In Springfield Public Schools' response to the Attorney General's Office, Springfield Public Schools identified seven Professional Development Training programs and nine Sunshine requests that "reference most of the Terms in subparagraphs A through V of your Request." Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 4-5.

146. Springfield Public Schools also noted that its Board of Education agendas, minutes, and digital meeting records "may contain Terms referenced in subparagraphs A through V of the Attorney General's Request." *Id.* at p. 5.

147. Springfield Public Schools represented that these were all the known responsive public records: "The Public Records referred to above in Subparagraphs B (1) through (4) constitute all of the Public Records known to the District that are responsive to Request Number 1. The District is not aware of other Open Public Records that may be responsive to the Attorney General's Request." *Id.*

148. According to a report on Springfield Public Schools’ website, approximately 170 Springfield Public Schools employees attended the Facing Racism Institute training that included introduction to critical race theory and other diversity and equity topics. Springfield Public Schools, *End of Year Report Focus Area 5: Goal 1 Strategy Plan Update*, Dec. 8, 2020, p. 8, available at [https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/\\$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf](https://go.boarddocs.com/mo/sps/Board.nsf/files/BW52X7044556/$file/Focus%20Area%205%2C%20Goal%201%20End%20of%20Year%20Report%202019-2020%2012.08.20%20-%20FINAL.pdf).

149. Springfield Public Schools received a “debrief document” that included feedback on “practical applications of addressing bias and/or racism with classroom simulations,” and Springfield Public Schools reported that it already was addressing some of the feedback. *Id.* at p. 9.

150. Springfield Public Schools did not produce any of the training materials received by attendees, which included Board of Education members, building principals, and department directors. *Id.* at p. 8.

151. Springfield Public Schools did not produce the “debrief document” containing feedback from the Facing Racism Institute training.

152. These records are public records under the Sunshine Law, and they are responsive to the Attorney General’s Office’s Sunshine request.

153. Springfield Public Schools also did not produce any of the quarterly training for Equity Champions, which its website reports are “focused on key topics such as equity, anti-racism, identity, cultural consciousness and social justice.”

Springfield Public Schools, Equity and Diversity Trainings, available at <https://www.sps.org/Page/5194>.

154. These records also are public records under the Sunshine Law, and they are responsive to the Attorney General's Office's Sunshine request.

155. Springfield Public Schools' failure to produce these responsive public records raises questions about how many other responsive public records exist, but have not been produced.

156. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not searching for all responsive public records.

157. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not producing all responsive public records.

158. Upon information and belief, Springfield Public Schools did not search for or produce all responsive public records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.023 by not searching for and by not producing all responsive public records; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties

based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count VII

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate for student curriculum public records and stated it had two responsive items without conducting an initial search

159. All preceding paragraphs are incorporated by reference.

160. Both the Attorney General’s Office and Representative Fishel requested all student curriculum public records relating to critical race theory and 21 other terms. Ex. F, AGO Sunshine Request; Ex. G, Fishel Sunshine Request.

161. In Springfield Public Schools’ response to the Attorney General’s Office, Springfield Public Schools identified two responsive items. Ex. E, Springfield Public Schools’ Fee Estimate to AGO, p. 5.

162. First, Springfield Public Schools produced a training presentation given to students for the past three school years. *Id.*

163. Springfield Public Schools claimed the training was not “Student Curriculum,” although Springfield Public Schools did not elaborate on how it defined that term. *See id.*

164. Second, Springfield Public Schools cited to a response to a past Sunshine law request to identify a single use of one word—“whiteness”—in a single “approved” literature book. *Id.*

165. The search process that led to the identification of this single use of a single word in a single book is highly suspect.

166. On June 14, 2021, a requester asked for “A copy of any lesson plan or curriculum approved for the 2021-2022 school year that mentions critical race theory, 1619 Project, whiteness, antiracism, or systemic racism.” Letter from Patrick Ishmael to Springfield Public Schools, June 14, 2021 (“Ishmael Sunshine Request”), attached as Exhibit J.

167. Mr. Ishmael publicly reported that about an hour after he submitted his Sunshine Law requests, he received a call from an attorney for Springfield Public Schools that informed him that “the only return I’d probably get would be for the term ‘whiteness,’ and it would be from some art textbook.” Patrick Ishmael, *The Unbelievable ‘Whiteness’ of Springfield Public Schools*, July 26, 2021, available at <https://showmeinstitute.org/blog/state-and-local-government/the-unbelievable-whiteness-of-springfield-public-schools/>.

168. Sure enough, on June 17, 2021, Springfield Public Schools completed its response to this request:

With respect to **Request Number 1**, the District has no lesson plan or curriculum for its students that has been approved for the 2021-2022 school year and that uses the terms ‘critical race theory, 1619 Project, whiteness, anti-racism, or systemic racism.’ A review of the District’s approved curriculum documents revealed only one book which has been approved in the past for use in the District’s High School literature classes, and is not currently being used, that uses the term ‘whiteness.’ That book, *Brave New World*, uses the term once on Page 15 in a sentence which reads: ‘ . . . also pale as death, pale with the posthumous *whiteness* of marble.’

Letter from Springfield Public Schools' Records Custodian to Patrick Ishmael, June 17, 2021 ("Springfield Public Schools' Response to Ishmael"), attached as Exhibit K (emphasis original).

169. Springfield Public Schools left no doubt that this was its final response, writing on June 21, 2021, "The District's June 17, 2021 response to Request 1 was complete." Letter from Springfield Public Schools to Patrick Ishmael, June 21, 2021, attached as Exhibit L.

170. Mr. Ishmael raised legitimate doubts about this response: "Am I to believe that in three days someone at the Springfield Public School District not only went through the curricula and lesson plans district wide and found *nothing*, but also went through books the district was no longer using *by hand* to search for terms and designate a page number?" Patrick Ishmael, *The Unbelievable 'Whiteness' of Springfield Public Schools*, July 26, 2021, available at <https://showmeinstitute.org/blog/state-and-local-government/the-unbelievable-whiteness-of-springfield-public-schools/> (emphasis original).

171. This is even more suspect since Springfield Public Schools has told the Attorney General's Office it will take thousands of hours to search locations where responsive documents might be located: 1,200 hours to search 15,000 Canvas Learning Management courses for the past three years (out of the roughly 50,000 Canvas courses created each year) ; 15 hours to search 184,071 documents in the Staff Google Drive, which could be reviewed at 120 hours per 1,000 documents (22,080 hours if all 184,000 documents were reviewed); and four hours to search 148

documents in the District File Shares at a rate of 120 hours per 1,000 documents. Ex. E, Springfield Public Schools' Fee Estimate to AGO, pp. 6-7.

172. In its estimate to Representative Fishel, Springfield Public Schools estimated it would take 7,000 hours—3.5 years of a single person working on the project full-time—simply to run a title search of documents in the local hard drives of the district's 3,5000 computers, 30 hours per 1,000 documents to run a manual search of documents in the local hard drives, and 120 hours per 1,000 documents retrieved. Ex. H, Springfield Public Schools' Fee Estimate to Fishel, pp. 6-7.

173. Springfield Public Schools could not have performed these searches between the time it received Mr. Ishmael's request on June 14, 2021 and its response on June 17, 2021 to state definitively that “the District has no lesson plan or curriculum for its students that has been approved for the 2021-2022 school year and that uses the terms ‘critical race theory, 1619 Project, whiteness, anti-racism, or systemic racism.’” Ex. K, Springfield Public Schools' Response to Ishmael, p. 2.

174. Springfield Public Schools represented to the Attorney General's Office that the single student training presentation and the single use of a single word in a single book “constitute all of the Public Records known to the District that are responsive” to the Attorney General's Office's request for critical race theory in student curriculum. Ex. E, Springfield Public Schools' Fee Estimate to AGO, p. 5.

175. Springfield Public Schools could not have performed these searches between the time it received the Attorney General's Office's request on October 5, 2021 and its response on November 5, 2021 to state definitively that the single

student training presentation and the single use of a single word in a single book “constitute all of the Public Records known to the District that are responsive” to the Attorney General’s Office’s request for critical race theory in student curriculum. *Id.*

176. Springfield Public Schools admitted it had not run a search because it noted that “If the Attorney General desires to have the District conduct an additional search, research and retrieval for other Public Records requested in Request Number 2, of which the District is not currently aware, the District will conduct such a search” if the Attorney General’s Office paid the \$37,070.06 deposit and other fees. *Id.* at 6.

177. Springfield Public Schools is required to perform an initial search to determine “some actual basis for deriving an estimate of the actual costs of responding to Plaintiff’s request.” Findings of Fact, Conclusion of Law and Judgment, *ARME v. The Curators of the University of Missouri*, 16BA-CV01710, 23 (Boone County Cir. Ct. Nov. 8, 2019).

178. Springfield Public Schools engaged in a search process that is insufficient to reasonably locate potentially responsive public records.

179. Upon information and belief, Springfield Public Schools retains additional public records responsive to the request for student curriculum public records.

180. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not conducting a search before reporting to multiple requesters that it had no responsive curriculum public records other than a single training presentation and a single literature citation.

181. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not conducting an initial search.

182. Upon information and belief, Springfield Public Schools did not search for all responsive public records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.023 by not conducting a search before reporting to multiple requesters that it had no responsive curriculum public records other than a single training presentation and a single literature citation; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count VIII

Springfield Public Schools violated Section 610.023, RSMo, when it failed to identify available responsive public records

183. All preceding paragraphs are incorporated by reference.

184. Both the Attorney General's Office and Representative Fishel requested all student curriculum public records relating to critical race theory and 21 other terms. Ex. F, AGO Sunshine Request; Ex. G, Fishel Sunshine Request.

185. In response to Representative Fishel's Sunshine Law request, Springfield Public Schools did not identify any responsive public records and demanded a six-figure deposit in order before a search could be run. Ex. H, Springfield Public Schools' Fee Estimate to Fishel, pp. 4-7.

186. In response to the Attorney General's Office's Sunshine Law request, which was substantively identical to Representative Fishel's request, Springfield Public Schools identified two responsive items. Ex. E, Springfield Public Schools' Fee Estimate to AGO, p. 5.

187. Both responsive public records were available at the time that Springfield Public Schools responded to Representative Fishel.

188. Springfield Public Schools is required to make records available for inspection and copying, and to act upon requests as soon as possible. §§ 610.023.2, 610.023.3, RSMo.

189. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not providing any responsive document information to Representative Fishel without payment of a deposit, when it was able to provide the responsive document information to a substantively identical request without payment of a deposit.

190. Springfield Public Schools engaged in a search process that is insufficient to reasonably locate potentially responsive public records.

191. Upon information and belief, Springfield Public Schools retains additional public records responsive to the request for student curriculum public records.

192. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not providing any responsive public records.

193. Upon information and belief, Springfield Public Schools did not provide responsive public records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.023 by not providing any responsive document information to Representative Fishel without payment of a deposit; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count IX

Springfield Public Schools violated Section 610.023, RSMo, when it improperly denied that other responsive public records existed

194. All preceding paragraphs are incorporated by reference.

195. In his Sunshine Law request, Mr. Ishmael asked for “[a] copy of any public statement made by the school, including any email directed to parents, that mentions critical race theory, 1619 Project, whiteness, antiracism, or systemic racism.” Ex. J, Ishmael Sunshine Request.

196. Springfield Public Schools reported that it was unable to locate any responsive public records:

With respect to Request Number 2, ‘public statements’ of the District are made by a limited number of District administrators, including specifically the District’s Superintendent and the District’s Chief Communications Officer, who are all located at the District’s central office. The District was unable to locate any public records which constitute a ‘public statement made by the school, including any email directed to parents, that mention critical race theory, 1619 Project, whiteness, anti-racism, or systemic racism provides the following documents [*sic*].

Ex. K, Springfield Public Schools’ Response to Ishmael, p. 2.

197. Springfield Public Schools told Mr. Ishmael that if he “wish[ed] to have the District check further, it will require the District to run a computer scan of the District’s server checking for email,” and it would be subject to costs of \$34.45 per hour for eight hours of searching and \$27.25 per hour to review and redact the records at a rate of 60 hours per 1,000 email retrieved. *Id.* at pp. 2-3.

198. On June 1, 2020, Springfield Public Schools’ Chief Equity and Diversity Officer sent an email addressed to SPS Team via email marketing software, Constant Contact. Email from Chief Equity and Diversity Officer to SPS Team, June 1, 2020, available at https://myemail.constantcontact.com/SPS-statement-on-recent-events.html?soid=1102490534298&aid=h_s_Gtp3qsg, attached as Exhibit M.

199. The webpage for the email is titled, “SPS statement on recent events.” *Id.*
200. Exhibit M is a public statement made by Springfield Public Schools.
201. The Chief Equity and Diversity Officer reported that “[o]ur students, staff and families are burdened by the racism that exists in our nation, region and community.” *Id.*
202. The Chief Equity and Diversity Office encouraged the SPS to “read, reflect and engage” on three resources that were “designed to help us better understand the challenges we face in order to better serve and support our students and colleagues.” *Id.*
203. Resource #1 “is an article written by a woman who details her journey with understanding her Whiteness and race relations through critical and transformative readings that helped her.” *Id.*
204. Resource #3 is an article that “details a list of anti-racist readings.” *Id.*
205. Public statements mentioning whiteness and anti-racism were responsive to Mr. Ishmael’s Sunshine Law request. Ex. J, Ishmael Sunshine Request.
206. Springfield Public Schools did not produce the June 1, 2020 statement to Mr. Ishmael. Ex. K, Springfield Public Schools’ Response to Ishmael.
207. The June 1, 2020 statement is a public record under the Sunshine Law.
208. The April 2021 elementary edition of the Equity and Diversity Newsletter concluded, “Anti-Asian American violence is on the rise in the United States and we need to make having appropriate conversations around anti-racism a

priority.” Apr. 2021 Equity and Diversity Newsletter, available at <https://www.smores.com/51csp>, p. 1, attached as Exhibit N.

209. Public statements mentioning anti-racism were responsive to Mr. Ishmael’s Sunshine Law request. Ex. J, Ishmael Sunshine Request.

210. Springfield Public Schools did not produce the April 2021 Equity and Diversity Newsletter to Mr. Ishmael. Ex. K, Springfield Public Schools’ Response to Ishmael.

211. The April 2021 Equity and Diversity Newsletter is a public record under the Sunshine Law.

212. Springfield Public Schools’ failure to produce a responsive document to this requester raises questions about how many other responsive public records exist, but have not been produced.

213. Upon information and belief, Springfield Public Schools retains additional public records responsive to this Sunshine request.

214. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not searching for all responsive public records.

215. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by not producing all responsive public records.

216. Upon information and belief, Springfield Public Schools did not search for or produce all responsive public records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.023 by not searching for and by not producing all responsive public records; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count X

Springfield Public Schools violated Section 610.023, RSMo, when it improperly narrowed a Sunshine request

217. All preceding paragraphs are incorporated by reference.

218. The Attorney General's Office sought "Any documents and materials from or relating to the Pulitzer Center or the Zinn Education Project and the Southern Poverty Law Center." Ex. F, AGO Sunshine Request, p. 2.

219. In Springfield Public Schools' response to the Attorney General's Office, Springfield Public Schools narrowed the request to "Any open public records which were received by the District from or sent by the District during School Years 2018-19; 2019-20 or 2020-21 to the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center." Ex. E, Springfield Public Schools' Fee Estimate to AGO, p. 2.

220. Springfield Public Schools' response only captures emails exchanged directly between Springfield Public Schools employees and the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center.

221. Springfield Public Schools then answered its narrowed request in the negative, reporting that "The District is not aware of any Public Records which were received from or sent to the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center during School Years 2018-19, 2019-20 or 2020-21." *Id.* at p. 6.

222. The original request would have captured other documents, such as a Springfield Public Schools executive recommending that the district adopted documents or materials created by the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center; Springfield Public Schools employees discussing the merits of documents or materials created by the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center; or Springfield Public Schools employees receiving emails from third-parties advocating for or against documents or materials created by the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center.

223. For example, Springfield Public Schools publishes a monthly "Equity and Diversity Newsletter, Elementary Edition." On numerous occasions, Springfield Public Schools' Equity and Diversity Newsletter has linked to the Southern Poverty Law Center's "Teaching Tolerance" project, which has been rebranded as the "Learning for Justice" project. *See, e.g.*, Sept. 2020 newsletter, available at <https://www.smores.com/9snz5-equity-and-diversity-newsletter>, p. 4, attached as

Exhibit O; Oct. 2020 newsletter, available at <https://www.smores.com/7ye58-equity-and-diversity-newsletter>, p. 3, attached as Exhibit P; Nov. 2020 newsletter, available at <https://www.smores.com/kzgax-equity-and-diversity-news-letter>, pp. 1-2, attached as Exhibit Q; Feb. 2021 newsletter, available at <https://www.smores.com/phry5-equity-and-diversity-newsletter>, pp. 3-4, attached as Exhibit R; Mar. 2021 newsletter, available at <https://www.smores.com/lswmh-equity-and-diversity-newsletter>, p. 2, attached as Exhibit S.

224. Documents containing links to materials from or relating to the Southern Poverty Law Center are public records and responsive to the Attorney General's Office's Sunshine Law request.

225. Springfield Public Schools improperly narrowed the Attorney General's Office's request to exclude responsive public records simply because they were not sent directly to or from the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center.

226. Springfield Public Schools improperly narrowed other requests, such as by adding the word "approved" to the Attorney General's Office's request for student curriculum public records. Ex. E, Springfield Public Schools' Fee Estimate to AGO, p. 2.

227. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by improperly narrowing the Attorney General's Office's request.

228. Upon information and belief, Springfield Public Schools narrowed the Attorney General’s Office’s request in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General’s Office requests that this Court enter a judgment in favor of the Attorney General’s Office: (a) declaring that Springfield Public Schools violated § 610.023 by improperly narrowing the Attorney General’s Office’s request; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General’s Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count XI
Springfield Public Schools violated Section 610.023, RSMo, when it
improperly denied that responsive public records existed without
performing a search

229. All preceding paragraphs are incorporated by reference.

230. In Springfield Public Schools’ response to the Attorney General’s Office, Springfield Public Schools reported that “The District is not aware of any Public Records which were received from or sent to the Pulitzer Center, Zinn Education Project or the Southern Poverty Law Center during School Years 2018-19, 2019-20 or 2020-21.” Ex. E, Springfield Public Schools’ Fee Estimate to AGO, p. 6.

231. Springfield Public Schools then noted, “If the Attorney General desires to have the District conduct an additional search for Public Records requested by you

in Request Number 3, that might be located on the District's computer servers, the District will conduct such a search. The fees charged for the additional search, research and retrieval for other Public Records requested in Request Number 3 are described below in paragraph 3." *Id.*

232. Under Springfield Public Schools' improperly narrowed request, the only responsive public records would be those that a Springfield Public Schools employee received from or sent to the Pulitzer Center, Zinn Education Project, or the Southern Poverty Law Center during School Years 2018-19, 2019-20 or 2020-21.

233. In order for Springfield Public Schools to state that it was not aware of any responsive records, it would have to run an email search.

234. But upon information and belief, Springfield Public Schools has not yet run such a search, since it has indicated that a search will be subject to a fee estimate, and if the other estimates are any indicator, a deposit before the search will be run.

235. As an example, multiple Springfield Public Schools employees have signed a public petition by the Zinn Education Project in which they "refuse to lie to young people about U.S. history and current events." Zinn Education Project, Pledge to Teach the Truth, Aug. 11, 2021, available at <https://www.zinnedproject.org/news/pledge-to-teach-truth>. Teachers are informed that the Zinn Education Project will "display the name, city/state, and response to question about why you are signing the pledge" on the Zinn Education Project website and that select pledges will be shared on social media. *Id.*

236. Pledge signatories are required to submit their email address. *Id.*

237. The Zinn Education Project website also criticizes a bill introduced in the Missouri legislature that would “aim to prohibit teachers from teaching the truth about this country: It was founded on dispossession of Native Americans, slavery, structural racism and oppression; and structural racism is a defining characteristic of our society today.” *Id.*

238. It is unknown whether any Springfield Public Schools employees who signed the Zinn Education Project pledge used their work email address, which Springfield Public Schools could find out if it ran a search for responsive records.

239. Documents containing materials from or relating to the Zinn Education Project are public records and responsive to the Attorney General’s Office’s Sunshine Law request.

240. Springfield Public Schools improperly reported that no responsive records existed when it had not searched for emails received from or sent to the Pulitzer Center, Zinn Education Project, or the Southern Poverty Law Center during School Years 2018-19, 2019-20 or 2020-21.

241. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.023 by improperly reporting that no responsive records existed without performing a search for responsive records.

242. Upon information and belief, Springfield Public Schools reported that no responsive records existed without performing a search for responsive records in violation of the Sunshine Law in order to deny access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.023 by improperly reporting that no responsive records existed without performing a search for responsive records; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count XII

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to Representative Fishel – charging for redactions

243. All preceding paragraphs are incorporated by reference.

244. Under § 610.024, RSMo public bodies are required to separate “exempt and nonexempt material and make the nonexempt material available” to the public.

245. In Springfield Public Schools' fee estimate to Representative Fishel, Springfield Public Schools provided estimates for retrieval and redaction for each category of public records. Ex. H, Springfield Public Schools' Fee Estimate to Fishel, pp. 5-7.

246. Fees for “staff time” to review and redact public records are not permitted under the Sunshine Law. *Gross v. Parson*, 624 S.W.3d 877, (Mo. banc 2021)

(“This obligation to separate exempt and non-exempt materials exists regardless of any particular request for public records.”).

247. “The Supreme Court has been pretty clear and it said specifically about the requirement to separate material that is public and closed that the obligation rests with the government regardless of whether a Sunshine request is made or not,” said Elad Gross, “an attorney and former Democratic candidate for attorney general.” Rudi Keller, *Springfield Schools Want \$179,000 to Begin Search in Sunshine Law Records Request*, Missouri Independent (Oct. 1, 2021), available at <https://missouriindependent.com/2021/10/01/springfield-schools-want-179000-to-begin-search-in-sunshine-law-records-request/>.

248. Springfield Public Schools violated § 610.026, RSMo by charging fees for the review and redaction of records.

249. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.024 by demanding payment for review and redaction of records.

250. Upon information and belief, Springfield Public Schools demanded payment for review and redaction of records in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General’s Office requests that this Court enter a judgment in favor of the Attorney General’s Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding payment for review and redaction of records; (b) ordering appropriate injunctive relief by requiring

Springfield Public Schools to immediately disclose all records requested by Representative Fishel; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

Count XIII

Springfield Public Schools violated Section 610.026.1(1), RSMo, when it provided an excessive fee estimate to multiple requesters – not charging for lower-paid clerk

251. All preceding paragraphs are incorporated by reference.

252. Springfield Public Schools has provided fee estimates to multiple requesters that were based on a \$26.18 per hour for a clerk.

253. In response to a June 2021 complaint that it violated the Sunshine Law, Springfield Public Schools reported that the “cost set out in the letter is equal to one-half hour of time at the lowest hourly rate for a District clerical employee – which is twenty-six dollars and eighteen cents (\$26.18). The Complainant should be well aware of this fact since she is a long-time District employee.” Letter from Springfield Public Schools’ Legal Counsel to the Attorney General’s Office, July 7, 2021, p. 2, attached as Exhibit T.

254. In response to a separate June 2021 complaint that it violated the Sunshine Law, Springfield Public Schools reported that the “cost set out in the letter is equal to one-half hour of time at the lowest hourly rate for a District clerical employee – which is twenty-six dollars and eighteen cents (\$26.18) per hour.” Letter

from Springfield Public Schools' Legal Counsel to the Attorney General's Office, July 13, 2021, p. 2, attached as Exhibit U.

255. In response to a different request, Springfield Public Schools reported that "the lowest rate [*sic*] hourly rate for District clerical employees" was \$27.25/hour. Ex. K, Springfield Public Schools' Response to Ishmael, p. 3.

256. But just a few months earlier, Springfield Public Schools reported that \$26.18 was the *average* for district clerical employees, not the lowest hourly rate.

257. In response to yet another complaint that it violated the Sunshine Law, Springfield Public Schools reported that "[t]he hourly rate quoted was the average hourly rate for District clerical employees (\$26.18/hour) or \$52.36 in the aggregate." Letter from Springfield Public Schools' Legal Counsel to the Attorney General's Office, Mar. 25, 2021, p. 2, attached as Exhibit V.

258. Springfield Public Schools currently pays secretaries and clerks \$12.10 to \$23.53 per hour, based on the type of position and experience. Ex. I, Springfield Public Schools' 2021-2022 Salary Schedules, p. 12.

259. Inventory clerks and library clerks are paid \$12.10 to \$17.55 per hour. *Id.*

260. A District Level Secretary is paid \$14.02 to \$20.32 per hour. *Id.*

261. According to the salary schedule, an executive secretary II is the only clerk or secretary position that makes more than \$23.53 per hour. *Id.*

262. Springfield Public Schools has not justified why an executive secretary II (on at least step 8 of 15 in the salary schedule) is needed to perform the research and retrieval of public records instead of a lower-paid clerical employee.

263. Upon information and belief, lower-level and lower-paid clerical employees such as clerks and secretaries are able to search for and retrieve public records requested by the Attorney General's Office and the other Sunshine requests identified in this Petition.

264. Upon information and belief, Springfield Public Schools knowingly and purposefully violated § 610.026.2 by demanding payment for research and retrieval of public records by its highest-paid category of clerical employees.

265. Upon information and belief, Springfield Public Schools demanded an outrageous deposit in violation of the Sunshine Law in order to limit or delay access to public records.

WHEREFORE, the Attorney General's Office requests that this Court enter a judgment in favor of the Attorney General's Office: (a) declaring that Springfield Public Schools violated § 610.026 by impermissibly demanding payment for research and retrieval of public records by its highest-paid category of clerical employees; (b) ordering appropriate injunctive relief by requiring Springfield Public Schools to immediately disclose all records requested by the Attorney General's Office and the other requesters who refused to pay a \$26.18 per hour clerical fee; (c) ordering \$1,000 in civil penalties based on any knowing violation of the Sunshine Law under § 610.027.3; (d) ordering \$5,000 in civil penalties based on any purposeful violation

of the Sunshine Law under § 610.027.4; and (e) for such further relief as the Court deems just and appropriate.

November 16, 2021

Respectfully submitted,

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