

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
TWENTY-SECOND JUDICIAL CIRCUIT
STATE OF MISSOURI

LEGAL SERVICES OF)	
EASTERN MISSOURI)	
and)	
HOPEY FINK,)	
)	
Plaintiffs,)	
)	
v.)	Cause No.: _____
)	
SAINT LOUIS PUBLIC)	
SCHOOLS,)	Division No.: _____
)	
Defendant.)	
)	
SERVE:)	
Dr. Kelvin R. Adams)	
Superintendent)	
801 N. 11 th Street)	
St. Louis, Missouri 63101)	
)	

**PETITION SEEKING JUDICIAL ENFORCEMENT OF, AND STATUTORY
PENALTIES UNDER, THE MISSOURI SUNSHINE LAW AND FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1. This action is brought pursuant to the Missouri Sunshine Law, Chapter 610 of the Missouri Revised Statutes (the “Sunshine Law”), to require disclosure of reports related to technology provided by Saint Louis Public Schools, technology fees and fines faced by students within Saint Louis Public Schools, and the demographics of students facing such fees and fines.
2. Plaintiffs Legal Services of Eastern Missouri and Hopey Fink seek immediate access to the requested documents in accordance with the Sunshine Law.

PARTIES

3. Plaintiff Legal Services of Eastern Missouri (“LSEM”) is now and was, at all times relevant to this lawsuit, a nonprofit corporation in the State of Missouri.

4. Plaintiff Hopey Fink is a resident of Missouri. She is an attorney at LSEM.

5. Defendant St. Louis Public Schools (“SLPS”) is a public governmental body as that term is defined by § 610.010(4), RSMo.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to § 610.027(1), RSMo.

7. Venue for this action is proper in this Court because Defendant is a public governmental body located in the City of St. Louis, Missouri.

FACTUAL ALLEGATIONS

8. Defendant SLPS is a “[p]ublic governmental body” within the definition of Mo. Rev. Stat. § 610.010(4). Defendant is a school district and therefore a public governmental body as that term is defined by § 610.010(4)(c), RSMo, and its records are subject to the provisions of Missouri’s Sunshine Law.

9. SLPS directs Sunshine Law requests be sent to its Custodian of Records.

10. On April 9, 2021, Meredith Pierce was the Custodian of Records for SLPS.

11. On April 9, 2021, Plaintiffs sent Meredith Pierce a Sunshine Law request pursuant to Missouri Revised Statutes Chapter 610.

12. Plaintiffs sent Defendant SLPS their Sunshine Law request via email and U.S. mail as part of an investigation into barriers faced by children and community members in accessing District-provided technology, including fees being charged by SLPS for District-provided technology devices. The request sought records relating to the policies and practices of SLPS related to technology fees and fines as well as the demographics of the students affected by these policies and practices from January 1, 2020, through the date the request was first sent.

13. Plaintiffs specifically referenced the statutory response requirement: “[i]f you refuse to copy or to provide us access for inspection and copying of these public records, please provide us within three business days a written statement regarding your grounds for refusal pursuant to Mo. Rev. Stat. § 610.023(4).”

14. Defendant SLPS received Plaintiffs’ request via email on April 9, 2021.

15. A copy of the request is attached hereto as Exhibit 1 and incorporated herein by reference.

16. On April 9, 2021, Ms. Pierce responded to Plaintiffs’ request on behalf of SLPS by email. SLPS did not grant immediate access to the records, decline to produce the documents, or provide “a detailed explanation of the cause for further delay and the place and earliest time and date” the records sought would be made available, as required by Mo. Rev. Stat. § 610.023.3.

17. On April 15, 2021, six days after Plaintiffs’ request, Plaintiffs again asked when the records would become available for inspection. Plaintiffs also reminded SLPS that Mo. Rev. Stat. § 610.023(3) requires that “[e]ach request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body...If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection.”

18. SLPS did not provide the earliest date and time that Plaintiffs could inspect the records.

19. SLPS did not provide the required explanation for the delay.

20. SLPS did not provide any records.

21. On April 20, 2021, Plaintiffs sent Ms. Pierce an email that stated: “[i]t has now been six business days since our Missouri Sunshine Law Request was made. Please advise us immediately as to when you will be acting upon the request.”

22. On April 21, 2021, Ms. Pierce sent Plaintiffs an email asking if the scope of the records request could be narrowed. SLPS did not provide the earliest time and date for inspection, provide an explanation for the delay, or provide the documents.

23. On April 21, 2021, Plaintiffs called Ms. Pierce. Plaintiffs ensured Ms. Pierce understood the reasoning behind the scope of the requested information and offered to work with SLPS to receive the documents in batches.

24. Following the phone call, on April 21, 2021, Plaintiffs emailed Ms. Pierce a summary of the phone conversation. Plaintiffs further reiterated that they would accept the documents in batches, but that they could not narrow down their request. Plaintiffs again requested a timeline for the production of documents as soon as possible.

25. SLPS did not provide the earliest date that Plaintiffs could inspect the records.

26. SLPS did not provide any records.

27. On April 30, 2021, Plaintiffs emailed Ms. Pierce asking for an update on their Sunshine Law request.

28. A copy of the correspondence on April 9, 2021, April 15, 2021, April 20, 2021, April 21, 2021, and April 30, 2021 is attached hereto as Exhibit 2 and incorporated herein by reference.

29. On April 30, 2021, Plaintiffs called Ms. Pierce and left a message asking Ms. Pierce to respond by email or phone call by close of business on April 30, 2021.

30. SLPS did not provide the earliest date that Plaintiffs could inspect the records.

31. SLPS did not provide the required explanation for the delay.

32. SLPS did not provide any records.

33. On May 6, 2021, Plaintiffs called Ms. Pierce and left a message.

34. On May 6, 2021, Ms. Pierce emailed Plaintiffs stating that Defendant SLPS was unable to fulfill certain items of Plaintiffs' request and that she would provide an update on the remaining items "as soon as [she] receive[s] one from IT."

35. In response to Ms. Pierce's email, on May 6, 2021, Plaintiffs emailed Ms. Pierce explaining their expectation that SLPS would de-identify certain documents. Plaintiffs reminded Defendant SLPS that the Family Educational Rights and Privacy Act ("FERPA") "permits disclosure of records when FERPA-protected material is removed and the remainder of the information is disclosed."

36. On May 10, 2021, Plaintiffs again emailed Ms. Pierce (1) asking for status of records, (2) asking for an estimated timeline and cost, (3) clarifying SLPS's FERPA obligations, and (4) stating that the documentation SLPS was required to produce should be readily available because SLPS tracked the data Plaintiffs were investigating.

37. On May 18, 2021, Ms. Pierce emailed Plaintiffs stating: "I am still working with IT and our attorney to identify any applicable files and will be back in contact as soon as I receive an update."

38. On May 18, 2021, Plaintiffs again emailed Ms. Pierce (1) asking for whatever documents had been found, (2) asking for an estimated timeline and cost, and (3) reiterating that they would accept documents in batches.

39. SLPS did not provide the earliest date that Plaintiffs could inspect the records.

40. SLPS did not provide the required explanation for the delay.

41. SLPS did not provide any records.

42. On May 26, 2021, Plaintiffs sent an email to Ms. Pierce (1) requesting the status of documents, (2) requesting whatever documents had been found, (3) reiterating that they would accept documents in batches, and (4) asking for an estimated timeline and cost.

43. SLPS did not provide the earliest date that Plaintiffs could inspect the records.

44. SLPS did not provide the required explanation for the delay.

45. SLPS did not provide any records.

46. On June 4, 2021, Plaintiffs sent an email to Ms. Pierce (1) stating that it had been almost two months since their initial request, (2) asking why no documents had been sent, (3) reiterating that they would accept documents in batches, and (4) asking for an estimated and timeline and cost.

47. Although it had been nearly two months since Plaintiffs' request, Defendant SLPS still did not provide the earliest date that Plaintiffs could inspect the records.

48. SLPS did not provide the required explanation for the delay.

49. SLPS did not provide any records.

50. A copy of the correspondence dated May 6, 2021, May 10, 2021, May 18, 2021, May 26, 2021, and June 4, 2021 is attached hereto as Exhibit 3 and incorporated herein by reference.

51. On June 17, 2021, Plaintiffs sent Ms. Pierce a letter via email reiterating Plaintiffs' requests and expectations. The letter stated: "SLPS has yet to provide us with this statutorily-required information. As Section 610.023(4) makes clear, the timeline for providing a written statement regarding grounds for refusing to provide access to requested records is three business days, and this deadline has passed. Therefore, we expect that SLPS has not refused access and will

be providing the requested records...Please provide a detailed explanation of the place and earliest time and date that the records will be available without delay. Failure to do so will be a continued violation of the Missouri Sunshine Law and may subject SLPS to legal action.”

52. A copy of the letter dated June 17, 2021 is attached hereto as Exhibit 4 and incorporated herein by reference.

53. On August 6, 2021, Plaintiffs sent an email to Jordan Grimes, the current custodian of records for SLPS. Attached to the email was the letter sent on June 17, 2021, and the email correspondence between Plaintiffs and Ms. Pierce.

54. On August 10, 2021, Grimes emailed Plaintiffs noting that he was “reviewing Ms. Pierce’s notes and reaching out to the appropriate departments in order to fulfill this request.” Grimes also stated that he would “reach back out Friday, August 13, at the latest with more information.”

55. A copy of the correspondence dated August 6, 2021 and August 10, 2021 is attached hereto as Exhibit 3, and incorporated herein by reference.

56. Grimes did not contact Plaintiffs on August 13, 2021.

57. As of the date of this filing, more than four months after Grimes’ last email on August 10, 2021, neither Grimes nor anyone else from SLPS has contacted Plaintiffs with any legally required information, including a detailed explanation of any of the delays or the place and earliest time and date the records sought will be made available to Plaintiffs.

58. As of the date of this filing, more than **eight months** since Plaintiffs requested access from SLPS to open public records so that they could investigate barriers to children’s access to educational technology, neither Grimes nor anyone else from SLPS has provided access to any of the records sought by Plaintiffs under the Sunshine Law.

COUNT I: VIOLATION OF THE MISSOURI SUNSHINE LAW
REQUIRING INJUNCTIVE RELIEF

59. Plaintiffs reallege and incorporate by reference the allegations of the preceding paragraphs.

60. The Sunshine Law is codified at §§ 610.010 to 610.200, RSMo. Section 610.011(1), RSMo, establishes the State’s public policy that “records...of public governmental bodies be open to the public unless otherwise provided by law.” § 610.011(1), RSMo.

61. Pursuant to the Sunshine Law, “all public records of public government bodies shall be open to the public for inspection and copying.” Mo. Rev. Stat. § 610.011.2, RSMo.

62. Defendant is a school district and therefore a “public governmental body” as defined by § 610.010(4)(c), RSMo, and thus subject to the provisions of the Sunshine Law.

63. The requested records related to SLPS technology policies and practices are open “public records” as defined by Section 610.010(6), RSMo, and are thus subject to disclosure under the Sunshine Law.

64. The Sunshine Law must be “liberally construed” and any exceptions “strictly construed” to promote “the public policy of this State that . . . records . . . of public governmental bodies be open to the public unless otherwise provided by law.” § 610.011, RSMo.

65. The requested records may not be closed under any exception to the Sunshine Law.

66. Section 610.023, RSMo, provides that “[e]ach request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body...If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record

will be available for inspection. This period for document production may exceed three days for reasonable cause.”

67. The Missouri Supreme Court recently confirmed the requirements of the Sunshine Law, including that a detailed explanation of the cause for delay must be provided. *Gross v. Parson*, 624 S.W.3d 877 (Mo. banc 2021).

68. Defendant failed to act upon Plaintiffs’ Sunshine Law request as soon as possible or by the end of the third business day following the date the request was received.

69. Defendant has not provided a detailed explanation of the cause for further delay since Plaintiffs explained the scope of their request on April 21, 2021.

70. Defendant has not established reasonable cause for their ongoing failure to produce the records requested.

71. Defendant has failed to provide access to the requested open public records by continuously delaying any substantive response to Plaintiffs.

72. Plaintiffs properly submitted their Sunshine request to Defendant, and it was received by Defendant on April 9, 2021.

73. Defendant has violated the Sunshine Law.

74. Defendant is aware of the requirements of the Sunshine Law and the probable consequences of violating the Sunshine Law, including by way of Plaintiffs’ own June 17, 2021 letter explaining that the delay was cause for legal action.

75. Defendant’s continued failure to act upon Plaintiffs’ Sunshine Law request is a purposeful and/or knowing violation under Mo. Rev. Stat. § 610.027.

76. Defendant has continually delayed the production of the requested documents for a period that has now extended over eight months.

77. During that time, Defendant failed to provide a detailed explanation of the causes for any of the delays in producing records as required by Mo. Rev. Stat. § 610.023(3).

78. Defendant also failed to provide the earliest time and date the records would be available as required by Mo. Rev. Stat. § 610.023(3).

79. Defendant employs more than 3000 full-time employees, including its own public information office and attorneys.

80. Defendant is aware of the requirements of the Sunshine Law for public governmental bodies.

81. Because Defendant understands what is required of governmental bodies as it relates to disclosure of public records under the Sunshine Law, it is also aware of the consequences of not complying with the law.

82. As a direct and proximate result of Defendant's actions, Plaintiffs and the public have been denied access to public records for a substantial period of time. This tremendous delay has impacted the ability of Plaintiffs—who are a nonprofit and its employee—to investigate fees and fines that SLPS has charged families and to educate families about how to avoid fees and fines, comply with policies and procedures, and access technology.

83. Defendant's violation of the Sunshine Law has impaired trust in the transparency of a public governmental body that affects the day-to-day life of thousands of families.

84. Defendant's violation of the Sunshine Law, including its ongoing denial of access to open public records, has had particularly grievous effects because of the COVID-19 pandemic. During this time, many families are reliant on SLPS-provided technology, and Defendant's technology-related policies, procedures, and barriers to access have had a profound impact on children's ability to access education.

85. By repeatedly failing and refusing to respond to Plaintiffs' request, Defendant has purposely and knowingly violated the Sunshine Law and is subject to civil penalties of up to \$5,000 and payment of Plaintiffs' costs and attorney fees pursuant to § 610.027.3-4, RSMo.

86. Defendant's knowing and purposeful violation is ongoing. Plaintiffs and the public are being irreparably damaged by Defendant's refusal to comply with the Sunshine Law, and Plaintiffs lack an adequate remedy at law.

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in their favor and against Defendant, and:

- (a) Declare that the records requested by Plaintiffs, related to fees being charged by SLPS for District-provided technology devices and barriers faced by community members in accessing District-provided technology, are open public records under the Missouri Sunshine Law and not subject to an exception that would require, or permit, Defendant to withhold the records requested;
- (b) Enter an injunction pursuant to Mo. Rev. Stat. § 610.030 requiring Defendant to immediately produce the records requested to Plaintiffs, without charging fees;
- (c) Find that Defendant purposefully and knowingly violated the Sunshine Law;
- (d) Award Plaintiffs their attorney's fees and costs of litigation as authorized by the Sunshine Law; and
- (e) Grant to Plaintiffs such other and further relief as is just and proper.

Respectfully Submitted,

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