

May 10, 2023

VIA EMAIL – Dan@will-law.org
Wisconsin Institute For Law & Liberty, Inc.
Attn: Daniel Lennington
330 E. Kilbourn Avenue, Suite 725
Milwaukee, WI 53202

RE: Your Open Records Request dated 4/19/23
Our File: 22637.82227

Dear Mr. Lennington:

As you know, I am general counsel for the Sun Prairie Area School District (“District”). The District is in receipt of your open records request dated April 19, 2023. Please direct all further communications relating to this open records request and all other future open records requests that WILL makes to the District to my attention.

Your April 19, 2023 request was for the following documents:

1. A copy of all emails, texts, messages, voicemails, or other communications sent or received by Superintendent Brad Saron, EHS Principal Renee Coleman, EHS Assistant Principal Heidi Walter, EHS Assistant Principal Christine Deutscher, or Director of Student Policy and School Operations Nick Reichhoff between March 3, 2023, and the date of this request, related to the incident described above. Please redact any personally identifiable information as required by law.
2. A copy of all emails, texts, messages, voicemails, or other communications sent or received any EHS teacher or counselor between March 3, 2023, and the date of this request, related to the incident described above. Please redact any personally identifiable information as required by law.

3. A copy of any meeting invitations or calendar invitations reflecting any meetings occurring on March 3, 2023, or thereafter, related to the incident described above.
4. A copy of the restroom and locker room guidance that was in effect on March 3, 2023.
5. All records indicating the date on which SPASD's "Restroom and Locker Room Accessibility Guidance" was created.
6. A copy of any locker room privacy policy posted in the locker rooms at EHS.
7. A copy of SPASD's organizational chart or other document reflecting the name and title of SPASD's Title IX coordinator.
8. A copy of any text messages, social media messages, emails, or other communications, whether on official District accounts or not, sent to or received by any member of the SPASD Board of Education related to the incident from March 3, 2023 to the date of this request.

I will respond to your requests in the order in which the requests were made:

1. This request seeks documents that the District is prohibited from disclosing pursuant to Wisconsin's Pupil Records Statute, Wis. Stat. § 119.125. That statute defines a pupil record as "records relating to individual pupils maintained by a school. . . ." To the extent any records that fall within your request meet the definition of a pupil record, the District is prohibited by law from providing those records to you.

With respect to any records responsive to this request that do not meet the definition of a pupil record under Wis. Stat. § 119.125, to locate records responsive to this request, all of the identified individuals (5 District employees) will need to review their emails (this would be done by District IT staff), text messages, voicemails and other communications for any records responsive to your request. The following chart includes the hourly rate plus benefits for these employees who will need to search the requested records, as well as the estimated amount of time it will take to locate records responsive to your request.

<u>NAME</u>	<u>HOURLY RATE</u>	<u>ESTIMATED # OF HRS</u>	<u>TOTALS</u>
Brad Saron	\$131.27	1.5	\$196.91
Renee Coleman	\$85.66	1.5	\$128.49
Heidi Walter	\$66.20	1.5	\$99.30
Christine Deutscher	\$60.36	1.5	\$90.54
Nicholas Reichhoff	\$85.36	1.5	\$128.04
IT search for emails	\$83.36	2.5	\$208.40
Review of Emails for responsive documents	\$45.88	2.0	\$91.76
TOTAL			\$943.44

Accordingly, the District requires prepayment from you in the amount of \$943.44 for the estimated location costs for these records pursuant to Wis. Stat. § 19.35(3)(c). Until this estimate is paid, the District will not proceed to locate any responsive records to this request.

2. This request also seeks documents that the District is prohibited from disclosing pursuant to Wisconsin's Pupil Records Statute, Wis. Stat. § 119.125. That statute defines a pupil record as "records relating to individual pupils maintained by a school. . . ." To the extent any records that fall within your request fall meet the definition of a pupil record, the District is prohibited by law from providing those records to you.

With respect to any records responsive to this request that do not meet the definition of a pupil record under Wis. Stat. § 119.125, to locate records responsive to this request, the District's IT staff will need to search the individual email accounts of all certified staff at EHS. IT estimates it will take 30 minutes per staff member to run the searches of these individual email accounts for any responsive emails. There are 118 certified staff at EHS, so the estimated time to search for responsive emails is 59 hours. IT's hourly rate is \$83.36, and so the total estimated location cost of the email search alone is \$4,918.24. In addition, those emails would then need to be reviewed to locate responsive emails. That review would be conducted by an assistant whose hourly rate is \$45.88. While it is difficult to estimate the time it will take to review the emails to locate responsive records, our best guess is that it will take about 10 hours to review the emails. The estimated

location costs for that review is \$458.80. In total, the estimated location cost for emails (and only emails) responsive to this request is \$5,377.04. Accordingly, the District requires prepayment from you in the amount of \$5,377.04 for the estimated location costs for emails responsive to this request pursuant to Wis. Stat. § 19.35(3)(c). Until this estimate is paid, the District will not proceed to locate any responsive records to this request.

In addition, your request for texts, messages, voicemails and other communications for all certified staff at EHS would require all 118 employees to search to locate any responsive documents. This is an overly broad request, but we are willing to have this search conducted. We estimate, however, that the location costs of performing this search will exceed \$5,000.00. Until this estimate is paid, the District will not proceed to locate any responsive records to this request.

3. Your request for meeting invitations or calendar invites with pupils and/or parents of pupils seeks documents that the District is prohibited from disclosing pursuant to Wisconsin's Pupil Records Statute, Wis. Stat. § 119.125. That statute defines a pupil record as "records relating to individual pupils maintained by a school. . . ." To the extent any records that fall within your request fall within the definition of a pupil record, the District is prohibited by law from providing those records to you.

With respect to non-pupil records, no responsive documents exist.

4. The District's Guidelines to Support Transgender, Non-Binary and Gender-Expansive Students can be found on the following District website:
<https://www.sunprairieschools.org/district/equity/supporting-all-students>
Also, the District's policy addressing locker rooms can be found here:
<https://go.boarddocs.com/wi/spasd/Board.nsf/goto?open&id=85UBBB033B46>
5. See Response to Request 4. In addition, the specific document you attached to your letter dated April 19, 2023, is an excerpt from the Guidelines which excerpt was created after the incident of March 3, 2023.
6. Attached is a picture of the posting you requested.

7. The District's organizational chart, which is attached, does not identify the SPASD's Title IX Coordinator. That information is located on the District's website at:
<https://www.sunprairieschools.org/title-ix-policies-on-sex-discrimination>
8. The only responsive document is attached, which is your email and letter dated April 19, 2023.

As noted above, the District will not locate records responsive to your Request Nos. 1 and 2 until you pre-pay the estimated location costs.

Under Wis. Stat. § 19.37, you have the right to commence a mandamus action to challenge this determination or you may request, in writing, that the District Attorney or Attorney General do so.

Please let me know if you have any questions.

Sincerely,

AXLEY BRYNELSON, LLP



Lori M. Lubinsky

LML:kjb
Attachments