

STATE OF SOUTH CAROLINA)
COUNTY OF KERSHAW)
SHERI FEW)
Plaintiff,)
vs.)
KERSHAW COUNTY SCHOOL)
DISTRICT)
Defendant,)
_____)

IN THE COURT OF COMMON PLEAS

C.A. NO. 2022-CP- 28 - _____

COMPLAINT

TO DEFENDANTS ABOVE NAMED:

Plaintiff Sheri L. Few, by and through her undersigned counsel, complaining of the above-named Defendant would respectfully show to this Honorable Court:

JURISDICTION AND VENUE

1. Plaintiff is a resident and citizen of Kershaw County, South Carolina and has been during the course of the events which are the subject of this litigation.
2. The Defendant, Kershaw County School District (KCSD) is a South Carolina body politic and political subdivision of the State of South Carolina organized and operating pursuant to South Carolina Code Ann. § 59-17-10 et seq. that is located in Kershaw County, South Carolina.
3. The events which form the basis for this Complaint occurred in Kershaw County, South Carolina.
4. This action is brought in part pursuant to the South Carolina Constitution, the Freedom of Information Act (FOIA), S.C. Code Ann. § 30-4-10 et seq., and the S.C. Uniform Declaratory Judgments Act, S.C. Code §15-53-10 et seq. for declaration of the

rights, status and other legal relations of the parties and other remedies as equitably reasonable and necessary.

5. The parties hereto and the subject matter herein are within the jurisdiction of this Court and venue is proper in Kershaw County South Carolina.

FACTUAL ALLEGATIONS

6. Plaintiff re-alleges all of the proceeding paragraphs above and incorporates the same herein by reference as if repeated verbatim.

7. As a public body as defined by S.C. Code. Ann. § 30-4-20(a), Defendant is bound by the Freedom of Information Act (FOIA), S.C. Code Ann. § 30-4-10 et seq.

8. The Plaintiff, on July 31, 2021, in conformity with the method supplied to her by the Kershaw County Superintendent, submitted an emailed FOIA request to KCSD (the Defendant) in which she requested numerous things including the “Culturally Responsive Teaching and training materials implemented with KCSD teachers.” In addition, the Plaintiff requested documents related to the new African American studies Committee, and the contract between the District and Dr. Gloria Boutte, who Plaintiff had been told by District employees assisted in the course development.

9. On August 12, 2021, the District initially indicated that “No Culturally Responsive Teaching training has been held for teachers.” KCSD did however, provide certain estimates and invoices from Dr. Gloria Boutte, including invoices for a new course and related to a presentation on Culturally Relevant Pedagogy from July 2021.

10. On September 10, 2021 the Plaintiff made another series of FOIA requests related to five invoices received for Professional Development training dated May 4, 2021 and for materials related to a May 13, 2021 invoice for “Culturally Relevant Pedagogy” as referenced in that

invoice. The FOIA requests asked KCSD to 1) “include materials implemented all seven/six days – 3 hours per day plus google classroom with resources including all sign-in sheets, agendas, videos, topic descriptions, guidance, PowerPoint presentations, other instructional materials or links to online resources provided during, and as follow-up to the professional development series.” The Plaintiff also requested 2) “training materials implemented with teachers who will teach the new African American Studies course including all sign-in sheets, agendas, videos, topic descriptions, guidance, PowerPoint presentations, other instructional materials or links to online resources provided during, and as follow-up to said training.” The Plaintiff requested 3) “the specific metric for the measurement of a student’s social and emotional status. And if implementing Pearson 360 Assessments, I would like a copy of the actual assessments, details about other services purchased from Pearson 360, and copies of materials purchased from Pearson 360 by the Kershaw County School District.”

11. By letter dated September 23, 2021, the Defendant now responded to the Plaintiff’s FOIA requests that “A two-page sign-in sheet for the teacher training is available. An eight-page calendar invite listing the attendees for the meeting where Culturally Relevant Pedagogy presentation was given is available. A one-page agenda presentation was given is also available. A 39-slide Google slide deck from the administrators meeting where the Culturally Relevant Pedagogy presentation... is available.” KCSD also responded that “the other items requested are contained in PowerPoint presentations that are the proprietary work product of Dr. Boutte and since not owned by the District, unavailable to release.”

12. After requiring payment by the Plaintiff for the copies, the Defendant sent the partial disclosure of materials in early October 2021.

13. On January 17 and January 18, 2022, Plaintiff filed two additional FOIA requests based upon information received through her prior FOIA requests. In that request the Plaintiff requested Powerpoint slides, handouts, and other materials or links to online resources provided during Remona Jenkins' 20-minute presentation on "CFG Activity" and "Zones" during the Administrator's Meeting according to the documents received from her 9/10/21 FOIA request.

14. By letter dated January 31, 2022, the Defendant acknowledged receipt of the Plaintiff's FOIA request and responded by refusing to provide the requested materials stating the following: "Response: The CFG Zones activity and other materials used by Dr. Jenkins in this presentation are copyrighted and owned by The National School Reform Faculty".

FOR A FIRST CAUSE OF ACTION
(Violation of the S.C. FOIA)

15. Plaintiff re-alleges all of the proceeding paragraphs above and incorporates the same herein by reference as if repeated verbatim.

16. As a public body as defined by S.C. Code Ann. § 30-4-20(a), Defendant is bound by the Freedom of Information Act (FOIA), S.C. Code Ann. § 30-4-10 et seq.

17. South Carolina Code Ann §30-4-30(a) gives any person the right to inspect or copy public records of a public body, including those of the Defendant.

18. South Carolina Code Ann §30-4-30(c) requires that, upon receiving a written request for records under FOIA, a public body such as Defendant must give the requesting party a written notification of the determination as to the availability of the

requested public records within fifteen days, excepting Saturdays, Sundays and legal holidays.

19. South Carolina Code Ann §30-4-30(c) further states that if a public body such as the Defendant fails to give written notification of the determination as to the availability of the requested records within the fifteen-day period, the FOIA request must be considered approved.

20. Defendant violated these sections of FOIA, South Carolina Code Ann §30-4-10 et seq., in one or more of the following particulars to wit:

a. In failing to allow Plaintiff to inspect or copy Defendant's public records, as listed in Plaintiff's written FOIA requests and as described herein;

b. In failing to provide Plaintiff with the requested public records once Plaintiff's FOIA were deemed or considered approved after the fifteen-day time period had expired; and

c. In providing no, or only partial and/or redacted responses or records without valid or proper basis for such refusal and/or redactions.

d. In improperly and unlawfully failing to produce documents by claiming copyright protection when such materials fall within an exemption to the Copyright Act, are "fair use", and/or otherwise not subject to copyright protection nor immune from disclosure pursuant to FOIA.

e. In being deceptive and evasive in denying the existence of materials that are clearly and reasonable within the scope of what was requested by the Plaintiff; and

f. In other such particulars as will be proven at trial.

21. The Defendant has failed to turn over the materials required by the FOIA statute as described herein (without any reasonable basis for such failure), thereby violating the FOIA statute, the violation of which has caused an irreparable injury to the Plaintiff for which no adequate remedy at law exists.

22. The production of the materials requested by the Plaintiff in her FOIA requests cannot reasonably be anticipated to have a substantially adverse effect on the copyright holder's potential market.

23. Plaintiff, pursuant to S.C. Code Ann. § 30-4-100(a) hereby applies to, and asks the Court for, a declaratory judgment ordering that the Plaintiff is entitled to immediately receive all of the un-redacted public records listed in their FOIA requests as stated herein above at no cost to Plaintiff and for any additional equitable relief as the Court considers appropriate.

24. Plaintiff, pursuant to S.C. Code Ann. § 30-4-100(a), hereby asks and applies for the Court to award her attorney fees and all other costs associated with this litigation.

25. Plaintiff also asks for costs and attorney fees pursuant to S.C. Code Ann. § 15-77-300.

FOR A SECOND CAUSE OF ACTION
(Declaratory Judgment)

26. Plaintiff re-alleges all of the proceeding paragraphs above and incorporates the same herein by reference as if repeated verbatim.

27. Plaintiff also seeks an order that she is entitled to all of the information requested in her FOIA request and prays for an Order of this court, holding the complete information be produced un-redacted and without omissions to the Plaintiff and requiring

the Defendant to pay for the costs and attorney's fees for this action pursuant to South Carolina Code Ann § 15-53-100.

Wherefore, Plaintiff prays for judgment against the Defendant and

a. For an Order that the Defendant has failed to comply with and violated FOIA in failing to provide the records requested by the Plaintiff and directing the production of the same.

a. For an Order Granting declaratory judgment as to the FOIA requested materials requiring such materials be provided in full and un-redacted, and for all damages, attorneys' fees and costs allowed by law or equity;

b. Awarding attorney's fees and costs under South Carolina Code §15-77-300 as this is a matter in which the Plaintiff is contesting a state action

c. Alternatively, awarding attorney's fees and costs under South Carolina Code §15-53-100.

d. An award of attorneys' fees and costs pursuant to S.C. Code Ann. § 30-4-100 and all other equitable relief the court deems appropriate.

e. And that the Court enter such other and further relief as may be just and proper.

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Beaufort, South Carolina
May 12, 2022