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**LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS  
U N D E R L A W**

May 5, 2020

Mr. Marcus Robinson  
Superintendent of Schools  
Normandy Schools Collaborative  
3855 Lucas and Hunt Road  
St. Louis, MO 63121  
*Via Email: [tcscott@normandysc.org](mailto:tcscott@normandysc.org)*

**RE: Requiring \$25 deposit to access curriculum harms most underserved students and violates state and federal law**

Dear Mr. Robinson:

We write to request that Normandy Schools Collaborative (“Normandy”) reverse its unlawful decision to require students and parents to pay a \$25 deposit for Chromebooks which are now necessary to access their education.<sup>1</sup> This practice violates Missouri’s State Constitution, which guarantees “free public schools for the gratuitous instruction of all persons in this state....” Mo. Const. art. IX, §1(a).<sup>2</sup> The required deposits also violate the McKinney Vento Act, which guarantees that children experiencing homelessness must have equal access to a “free, appropriate public education.” 42 U.S.C. §11431(1). State and local agencies are legally obligated to remove

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<sup>1</sup> See Normandy Schools Collaborative Remote Learning (March 2020), retrieved from <https://our241.com/normandy-schools-collaborative-remote-learning/>. The website states as follows: “to support virtual/remote learning for our students, families who do not have devices at home will be able to check out district Chromebooks (one per family). There is a \$25 deposit required for Chromebooks (covers insurance for the device in the event of loss or damage to device).”

<sup>2</sup> Mo. Const. art. IX, s 1(a), provides in pertinent part as follows: “A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the general assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state within ages not in excess of twenty-one years as prescribed by law. . . .”

barriers to ensure children in unstable housing can “participate fully in school activities”<sup>3</sup> and “meet the same challenging state academic standards”<sup>4</sup> as their peers. Beyond being invalid and unconstitutional, requiring a \$25 deposit disproportionately harms the students who are most underserved by our education system, including: students of color, students living in poverty, students experiencing homelessness, and students who are English learners.

As our community takes steps to stop the spread of the COVID-19 pandemic, Normandy has transitioned its curriculum to online or “distance” learning. This approach requires that students have access to a computer and an internet connection in order to access the curriculum for a public education. This access is particularly essential for students trying to earn credits for graduation. We demand Normandy immediately desist from requiring families to pay a \$25 deposit for a Chromebook because it denies families access to the free, public education guaranteed by state and federal law.

It is widely known and extensively documented that African American and Latinx families have less access to technology<sup>5</sup> and less disposable income<sup>6</sup> than their White peers. The

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<sup>3</sup> 42 U.S.C. §11433(d)(16).

<sup>4</sup> 42 U.S.C. §11431(4).

<sup>5</sup> For example, a 2018 *Child Trends* Report found stark disparities in home computer access and internet use. Children in households with lower incomes were less likely to have home computer access (57 percent access in households earning under \$15,000 annually, compared with 91 percent of those in households earning \$75,000 or more annually); for internet use, the respective percentages were 38 and 70 percent. The Report also documented wide gaps in computer and internet access by race. Black and Latinx children were less likely to have computer access than their White peers, and less likely to have internet access at home (approximately 50% compared to 65%). *Child Trends*. (2018). “Home computer access and internet use.” Retrieved from <https://www.childtrends.org/indicators/home-computer-access>; see also Office of Policy Development and Research. (2016). “Digital Inequality and Low-Income Households.” Retrieved from <https://www.huduser.gov/portal/periodicals/em/fall16/highlight2.html>; Pew Research Center. (2019). “Smartphones help blacks, Hispanics bridge some – but not all – digital gaps with whites.” Retrieved from <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/>; Pew Research Center. (2019). “Digital divide persists even as lower-income Americans make gains in tech adoption.” Retrieved from <https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/>.

<sup>6</sup> See, e.g., Laura Shin, *The Racial Wealth Gap: Why A Typical White Household Has 16 Times The Wealth Of A Black One* (2015), *Forbes*, retrieved from <https://www.forbes.com/sites/laurashin/2015/03/26/the-racial-wealth-gap-why-a-typical-white-household-has-16-times-the-wealth-of-a-black-one/#5acd29ed1f45> (the median white household had \$111,146 in wealth holdings in 2011, compared to \$7,113 for the median black household and \$8,348 for the median Latino household; with respect to income, a typical white family earns \$50,400, while the typical

disproportionate impact of COVID-19 on communities of color compounds the economic and educational challenges faced by such families. Missouri's population is 11% African American, but African Americans currently make up 25% of the cases and 18% of the deaths from COVID-19.<sup>7</sup> Saint Louis County has been hit harder by COVID-19 than any other county in the state.<sup>8</sup> On top of having the most cases and deaths across the state, residents of Saint Louis County have filed the most unemployment claims as the pandemic cripples the state's economy.<sup>9</sup>

These disparities are not abstract statistics for Normandy's families, where 96.6% of students qualify for free or reduced-price lunches and 94.6% of students are African American.<sup>10</sup> These families cannot be required to choose between their children's education and economic security, especially during a time of growing financial strife caused by COVID-19. Missouri's constitutional guarantee of a free education prohibits requiring families to make such a choice.

The Missouri Supreme Court has held the state constitution prohibits a school district from charging registration fees or fees in courses for which academic credit is given even if that fee or charge is de-minimis. *Concerned Parents v. Caruthersville Sch. Dist. 18*, 548 S.W.2d 554, 562 (Mo. 1977). The Attorney General's Office has also determined that a school district may not

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black family earns \$32,038, and the typical Latino family, \$36,840); *see also* Amy Traub, Laura Sullivan, Tatjana Meschede, and Tom Shapiro, *The Asset Value of Whiteness: Understanding the Racial Wealth Gap* (2017), *Demos*, retrieved from <http://www.demos.org/publication/asset-value-whitenessunderstanding-racial-wealth-gap>.

<sup>7</sup> Sam Clancy, Missouri releases racial data on COVID-19 patients as cases surpass 3,500, 80 deaths (April 2020), *Local-KSDK*, retrieved from [https://www.google.com/search?q=ksdk+about+missouri&rlz=1C1GCEA\\_enUS828US834&oq=ksdk+about+missouri&aqs=chrome..69i57.8098j0j7&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=ksdk+about+missouri&rlz=1C1GCEA_enUS828US834&oq=ksdk+about+missouri&aqs=chrome..69i57.8098j0j7&sourceid=chrome&ie=UTF-8).

<sup>8</sup> Missouri Coronavirus Map and Case Count (Updated May 1, 2020), *New York Times*, retrieved from <https://www.nytimes.com/interactive/2020/us/missouri-coronavirus-cases.html>. Racial disparities similarly characterize trends in Saint Louis County where recent data shows African American residents are affected at nearly twice the rate as White residents. *See* "More than 50% of COVID-19 patients in St. Louis County are black; all 12 deaths in city were black" (April 9, 2020), *KMOV4*, retrieved from [https://www.kmov.com/news/more-than-50-of-covid-19-patients-in-st-louis-county-are-black-all-12/article\\_0f09fef4-79de-11ea-9a55-77ef9fb983a2.html](https://www.kmov.com/news/more-than-50-of-covid-19-patients-in-st-louis-county-are-black-all-12/article_0f09fef4-79de-11ea-9a55-77ef9fb983a2.html).

<sup>9</sup> "Latest Coronavirus News: St. Louis County has the most unemployment claims in Missouri" (April 30, 2020), *KMOV4*, retrieved from [https://www.kmov.com/news/latest-missouri-st-louis-coronavirus-news/article\\_fb3b81ac-8885-11ea-b2bf-cb0239540ff8.html](https://www.kmov.com/news/latest-missouri-st-louis-coronavirus-news/article_fb3b81ac-8885-11ea-b2bf-cb0239540ff8.html).

<sup>10</sup> District Demographic Data (2019), Missouri Department of Elementary and Secondary Education, available for download at <https://apps.dese.mo.gov/MCDS/home.aspx?categoryid=2&view=2>.

require a student to provide integral materials required for the successful completion of a course, without violating the state constitutional mandate. Op. Att’y Gen. 266-73 (1973).<sup>11</sup> “The general rule is that a requirement for free schools will invalidate any fee, whether denominated tuition, matriculation fee, registration fee, library fee, incidental fee, or anything else.” Op. Att’y Gen. 269-72 (1972) (citing *State ex rel. Roberts v. Wilson*, 297 S.W. 419 (Spr. Ct. App. 1927); cases collected at *Anno.*, *Validity of Public School Fees*, 41. A.L.R. 3d 752).

Normandy’s curriculum now requires a computer and internet to fully access coursework and teacher support. Charging for this technology, violates the constitutional prohibition on fees for courses leading to academic credit. It makes no difference that the school characterizes the fee as a “deposit” because the end result for families who cannot afford it is the same—their child must forego public education because of money.

The deposit requirement directly harms Legal Services of Eastern Missouri (LSEM) clients. For example, one client’s family was unable to afford a deposit of \$25 dollars. As a result, the family entered into a predatory “rent to own” agreement for a computer.<sup>12</sup> Another client’s family is also unable to satisfy the deposit requirement. They are experiencing homelessness as defined under the McKinney Vento Homelessness Assistance Act.<sup>13</sup> A \$25 deposit in this family’s case is unaffordable because they do not have \$25 to spare. The Missouri Constitution protects these students, and their families, by ensuring the right to an education is not dependent on their ability to pay for one.

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<sup>11</sup> The Opinion consistently states that “the legality of this practice [of requiring a student to furnish their own materials or rent them at a fee] turns on-whether participation . . . is given academic credit.” If academic credit is given, the school may not require the student to furnish such materials, rent them at a fee, or charge costs. Op. Att’y Gen. 266-73 (1973), p. 10.

<sup>12</sup> The predatory loan required no up-front costs, but the long-term costs to the family will be substantial.

<sup>13</sup> The McKinney-Vento Act defines “homeless children and youths” as individuals who lack “a fixed, regular, and adequate nighttime residence.” 42 U.S.C. § 11434a(2)(B)(i). It includes students who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations or are living in emergency or transitional shelters. 42 USC § 11434a(2).

The outbreak of COVID-19 has posed many challenges to school districts like Normandy's, requiring speedy adjustments to keep students, staff, and families safe and healthy. But responses to the virus cannot violate the Missouri Constitution or federal law, especially when those violations disproportionately disadvantage the most vulnerable members of our community. Putting aside the legal obstacles, Normandy's decision is plainly inequitable and unfair. It stands in stark contrast to the District's mission of "improv[ing] the lives of our students by equipping them with the tools to solve 21st Century challenges."<sup>14</sup>

Please advise within ten days of receiving this letter that Normandy will reconsider its decision and immediately discontinue the unconstitutional practice described above. We look forward to hearing from you by May 15, 2020 that Normandy Schools Collaborative has resolved these issues to ensure that all children in the district (including the clients of LSEM) receive the free public education to which they are entitled under the Missouri Constitution.

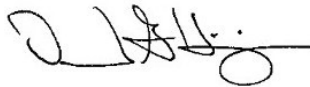
Sincerely,

*/s/ Amanda J. Schneider*

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Enclosures

CC: Dorothy White Coleman, Counsel for Normandy Schools Collaborative

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<sup>14</sup> Normandy Schools Collaborative, "We are #NormandyStrong!," retrieved from <https://www.normandysc.org/domain/33>.