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

May 11, 2020

Ms. Tina Clark-Scott
Mr. Marcus Robinson
Superintendent of Schools
Normandy Schools Collaborative
3855 Lucas and Hunt Road
St. Louis, MO 63121
Via Email: tcscott@normandysc.org

RE: Follow up letter, regarding unlawful \$25 fee to access curriculum and necessary steps to ensure all Normandy students receive constitutionally mandated education

Dear Ms. Clark-Scott and Mr. Robinson:

Thank you for your prompt response to our letter sent on May 5th requesting Normandy Schools Collaborative immediately discontinue the practice of charging students \$25 to access a Chromebook which is now necessary to access their education. We have outlined our continued concerns below, along with recommendations on immediate steps Normandy can take to ensure all Normandy children receive the type of education that lives up to Missouri laws and fulfills Normandy's commendable commitment to "continuing learning at home"¹ during today's changing public health landscape.

A. Normandy must end its practice of charging \$25 for Chromebooks and immediately inform all families that the fee is not required

We appreciate the clarification that this charge is a "fee for insurance." But this clarification reinforces our concern that the charges violate Missouri's constitution, which invalidates "any fee, whether denominated tuition, matriculation fee, registration fee, library fee, incidental fee, or anything else" for accessing courses given for academic credit.² *Op. Att'y Gen. 269-72 (1972)*, p. 3; *see also Concerned Parents v. Caruthersville Sch. Dist. 18*, 548 S.W.2d 554, 563 (Mo. 1977). This prohibition does not change for situations where districts must pay for resources to facilitate learning. The Attorney General's Office has explained Missouri's constitution prohibits charging students for materials used for instruction, irrespective of the

¹ *See* Normandy Schools Collaborative Remote Learning Update: Phase Two Rolls Out (April 28 2020), retrieved from <https://www.normandysc.org/covid19>.

² *See also Concerned Parents*, 548 S.W.2d at 563.

“actual costs” associated with such materials. *Op. Att’y Gen.* 269-72 (1972), p. 4. Any fee for “insurance” falls squarely within this prohibition since “[t]here is no authority in the Constitution or statutes for allowing any of these costs to excuse the school district from its duty of providing ‘gratuitous instruction’ to all students who are properly enrolled in its schools.” *Id.*

We likewise appreciate the clarification that a waiver of costs is available to those that need it. But Missouri’s laws and courts have never carved out an exception when waivers are provided to the general rule that fees are invalid for accessing integral instruction. Moreover, waivers are not meaningful when families are unaware of them. The experiences of LSEM’s clients, described in our May 5th letter, illustrate the existence of a fee poses a material barrier to educational access, especially when the district’s published practice does not inform families that the fee can be waived, nor how to request a waiver. Normandy’s published practice on the “Distribution of Chromebooks” only references the “\$25 deposit required”—there is no mention of waiving the requirement for families in need.³ As the district evaluates this issue, we respectfully ask the district to take immediate steps to inform families that those who cannot afford the fee need not pay it, and specify a clear, easy process to obtain a Chromebook at no charge.

B. Normandy must take proactive steps to identify students who need additional technology, devices, and related supports to access Normandy’s remote learning program

In addition to revising Normandy’s publicly-facing requirements for Chromebooks, we urge that Normandy take affirmative steps to identify students who lack the technology, devices, and related supports to access Normandy’s remote learning program.⁴ As you know, and as further articulated in our May 5th letter, the federal McKinney-Vento Homeless Assistance Act requires state and local educational agencies to remove barriers to the identification, enrollment, full participation, and retention in school for students experiencing homelessness.⁵ Districts must ensure that “homeless students are attending classes and participating fully in school activities immediately upon the student being identified as eligible for McKinney-Vento rights and services.”⁶ This duty includes proactively removing “barriers to accessing academic and extracurricular activities, including...online learning...if such programs are available at the state and local levels.”⁷ Federal civil rights laws similarly require schools to take affirmative

³ See Normandy Schools Collaborative Remote Learning Update: Phase Two Rolls Out (April 28 2020), retrieved from <https://www.normandysc.org/covid19> (explaining “we now know remote learning will continue through the end of the school year, May 29. . . . We have partnered with Bellwether Education Partners to roll out this next phase in our remote learning program. Teachers will increase engagement with the use of tools like Google Meet and Zoom to have virtual classroom lessons for students to interact with each other and the teacher. These class sessions will be recorded then posted on Google Classroom for future reference.”)

⁴ 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).”

⁵ 42 U.S.C. §11433(d)(16); 42 U.S.C. §11431(4).

⁶ United States Department of Education, Education for Homeless Children and Youths Program Non-Regulatory Guidance Title VII-B of the McKinney-Vento Homeless Assistance Act, as amended by the Every Student Succeeds Act, Updated August 2018, p.24 <https://nche.ed.gov/mckinney-vento/>.

⁷ 42 USC § 11432(g)(1)(F)(iii).

steps to ensure equal educational opportunities for students regardless of race, color, national origin, sex, and English proficiency.⁸

It requires little explanation that students experiencing homelessness likely lack the technological equipment needed to access Normandy’s “remote learning program” (and the \$25 to pay for the insurance fee). The national and local demographic trends referenced in our May 5th letter—showing students in poverty and students of color are most likely to lack technology for remote instruction, while also being hardest hit by the economic and physical harms of COVID-19—demonstrate that most, if not all, of Normandy’s students may face barriers to accessing Normandy’s remote learning program (given 96% of Normandy’s students qualify for free and reduced-price lunch and 94% of students are African American). Like other districts, Normandy is obligated to ensure all students receive full access to instruction during this time by taking affirmative steps which include, but are not limited to:

Reaching out to families to inform them of Normandy’s remote learning program and how they can access necessary materials: Many students will likely be forced to endure multiple displacements. Maintaining a sustained connection with Normandy will be essential during these times to ensure that students continue to have access to education, wherever they may be located. Normandy should always provide such information in the family’s preferred language.

Surveying families on their needs to access education during this time: Needs-based surveys will allow Normandy to identify which families lack necessary technology and devices for accessing the district’s remote learning program (and then provide such resources at no charge). Such surveys can also identify associated barriers with learning that may include: lack of transportation to pick up materials, lack of familiarity with appropriate use of technology, and/or emerging circumstances that require additional services under state and federal laws.

Delivering necessary materials to shelters and families in need (*e.g.*, computers, iPads, internet access, calculators, extra chargers, school supplies) to enable students experiencing homelessness and limited resources to participate in their school’s distance learning program and assist families in utilizing new technology. Many families living in shelters are not permitted to leave during this time and many others lack necessary transportation. Therefore, these items may need to be delivered.

Many districts across the country are engaged in these types activities. Examples include:⁹

- Binghamton University Community Schools, which include 10 school districts and, some in rural areas, are providing items to help fulfill students’ and families’ technology needs, including Chromebooks and Wi-Fi. They have also held virtual cafes for grandparents, who are primary guardians for students, to address remote learning questions. The schools distribute weekly newsletters with information for families, and they have used social media, texting, and telephone calls to communicate with families and students.

⁸ See, *e.g.*, Title VI of the Civil Rights Act, 42 U.S.C. § 2000d; The Equal Educational Opportunity Act, 20 U.S.C. § 1703(f).

⁹ See also Joint Statement of Education and Civil Rights Organizations Concerning Equitable Education During the COVID-19 Pandemic School Closures and Beyond (April 29, 2020), retrieved from http://civilrightsdocs.info/pdf/policy/letters/2020/Joint_Statement_of_National_Education_and_Civil_Rights_Leaders_on_COVID-19_School_Closure-FINAL4.29.20.pdf.

Some community school directors conduct home visits (practicing safe social distancing) to families they have been unable to contact. The schools have a virtual drop-in for high school students who can ask questions for their families and receive support.¹⁰

- Austin Independent School District has retrofitted its buses with Wi-Fi capabilities up to 200 feet. These buses will be strategically positioned at apartments and neighborhoods identified as having the highest internet needs between 8:00 a.m. and 2:00 p.m. Austin ISD will also deliver Chromebooks as well as Wi-Fi hotspots to students in grades 3-7 in need of one or both. For students in grades 8-12, Austin ISD has an existing program that provides one device per student.¹¹
- San Antonio ISD, TX: social workers have called all McKinney-Vento families to find out their current living situation and request back-up contact information. Also, the school district distributed a needs survey on its webpage, including a question to identify students who have lost their housing recently, so the district can do outreach based on this self-identification.¹²

We urge Normandy to adopt the promising practices outlined above to respond to the needs of families in the community and satisfy its obligations under the law.

C. Compensatory education for all children who lost out on learning due to Normandy's practice of requiring \$25 for a Chromebook

Along with taking proactive measures to identify students lacking technology access, Normandy should take immediate steps to provide compensatory education to all students who lost out on learning due to inadequate technology and devices to access the district's remote learning program or other circumstances beyond their control. Such compensatory education may include: ability to make up past assignments, additional teacher tutoring and support, training on how to use educational technology and access online curriculum, ongoing instruction during the summer months, and/or a personalized plan to ensure the student can earn credits, achieve grade-level standards, and graduate on time.

LSEM has shared with their clients whom we referenced in our prior letter that, according to your email, a fee waiver is available for accessing a Chromebook. LSEM will work with their client, who is homeless, to obtain the necessary technology from the district. But even then, this client has already missed out on weeks of valuable learning due to the published practice of requiring fees. Should the family request compensatory educational supports, we will follow up with the district accordingly.

D. Conclusion

As acknowledged in our May 5th letter, we appreciate Normandy's efforts during a public health crisis that poses challenges to schools and families alike. We commend Normandy for recognizing that "this is an unprecedented time in our society and yet, we still have an obligation

¹⁰ *Id.* at 2.

¹¹ *Id.* at 7.

¹² See <https://www.saisd.net/page/covid-19>

to ensure our students have an opportunity to continue with their education.”¹³ To comply with existing laws and fulfill Normandy’s commitment to its students, please advise us by May 18th of the steps Normandy has taken and will take to: (1) immediately inform Normandy’s families that they need not pay \$25 for a Chromebook; (2) proactively identify Normandy families that currently lack the technology and devices to access Normandy’s remote learning program; and (3) provide compensatory educational services to students who lost out on learning due to inadequate access to necessary technology and associated resources. We look forward to hearing about the efforts you are undertaking to ensure all of Normandy’s children, including those most marginalized by the current circumstances, receive the free public education guaranteed by Missouri’s Constitution and Normandy’s core values.

Sincerely,

/s/ Amanda J. Schneider

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Enclosures

CC: Dorothy White Coleman, Counsel for Normandy Schools Collaborative

¹³ See Normandy Schools Collaborative Remote Learning Update: Phase Two Rolls Out (April 28 2020), retrieved from <https://www.normandysc.org/covid19>.