

STATE OF WISCONSIN

CIRCUIT COURT

DANE COUNTY

WISCONSIN INSTITUTE FOR LAW &
LIBERTY, INC.,

Petitioner,

V.

Case No. _____

MADISON METROPOLITAN SCHOOL
DISTRICT,

Respondent.

AFFIDAVIT OF DANIEL P. LENNINGTON

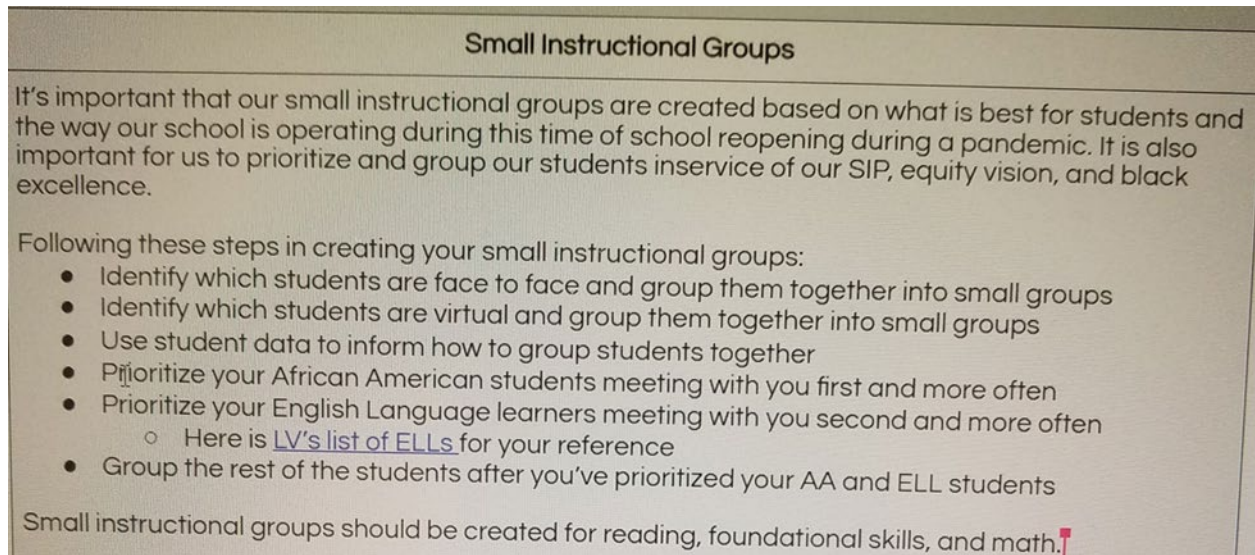
STATE OF WISCONSIN)
) SS
WAUKESHA COUNTY)

Being first duly sworn on oath, I state as follows based on personal knowledge or information and belief:

1. I am an attorney and serve as Deputy Counsel at the Wisconsin Institute for Law & Liberty.

2. In January 2022, I received information from multiple employees of the Madison Metropolitan School District (MMSD) alleging that MMSD was intentionally discriminating against students based on race. These communications were in the form of requests for representation, and the employees stated that they wished to keep their identities confidential. One employee specially stated that they feared retaliation if their identity were revealed.

3. In the context of my communications with these individuals, I received the following digital photograph. I was informed that this screenshot represented official policy of MMSD. I have cropped this photograph to remove potentially personal identifying information:



4. In my view, this public record confirmed exactly what had been alleged against MMSD: that the district was, in fact, discriminating against students based on race.

5. Because this screenshot was not a complete version of the policy, I sought to obtain a complete version of this policy and other related public records.

6. On January 31, 2022, I submitted the public records request attached as an exhibit, which also includes email communications between myself and the district, to publicrecords@madison.k12.wi.us. I made this request on WILL's behalf and in my official capacity as Deputy Counsel. This is the email address that MMSD

instructs requestors to use. <https://www.madison.k12.wi.us/about/public-records-request>.

7. On March 7, 2022, I requested an update from MMSD. On March 8, I received a reply indicating that MMSD received my request and would review the request “as soon as practical.” I sought updates on August 4, September 19, September 28, November 18, and December 6. I received no response to any of these requests.

8. As of the date of this affidavit, I have received no further response and MMSD has not fulfilled my request dated January 31, 2022.

9. On March 24, 2022, I submitted a simple and straightforward request to MMSD: “Please provide a copy of the slides/handouts used during Regent Pride (3rd Hour) on March 24, 2022, at West High School.” MMSD acknowledged the request on March 28, but then did not fulfill the request until November 7, 2022. The entire response included a 1-page PDF, two 4-page PDFs, and a 20-page PDF slideshow, which had been showed to students in March 2022.

Dated this 12 day of January, 2023.



Daniel P. Lennington
Deputy Counsel
Wisconsin Institute for Law & Liberty, Inc.

Subscribed and sworn to before me
this 12th day of January, 2023.



Notary Public, State of Wisconsin

My Commission expires 8/1/2025

Daniel Lennington

To: Daniel Lennington
Subject: RE: WILL REQUEST: Policy Records Request

From: Daniel Lennington <Dan@will-law.org>
Sent: Tuesday, December 6, 2022 1:49 PM
To: Public Records MMSD <publicrecords@madison.k12.wi.us>
Subject: WILL REQUEST: Policy Records Request

Please provide an update for this request. I made the request on 1/31/2022. According to your tracking spreadsheet, this request is dated 2/1/22. That same spreadsheet indicates that you collected relevant emails in May 2022. I have asked for repeated updates, including March 7, August 4, Sept. 19, Sept. 28, and Nov. 18. The last several requests for updates have gone unanswered.

The public records law requires you to respond as soon as practicable and without delay. Since I made my request, your tracking spreadsheet indicates you have fulfilled several other requests that were received later.

Please provide an update immediately.

Thank you,
Dan Lennington

From: Daniel Lennington <Dan@will-law.org>
Sent: Friday, November 18, 2022 11:05 AM
To: Public Records MMSD <publicrecords@madison.k12.wi.us>
Subject: RE: PR - Policy Records Request

Good morning – can you please provide an update for this request dated Jan. 31, 2022?

From: Daniel Lennington <Dan@will-law.org>
Sent: Wednesday, September 28, 2022 9:58 AM
To: Public Records MMSD <publicrecords@madison.k12.wi.us>
Cc: Daniel Lennington <Dan@will-law.org>
Subject: RE: PR - Policy Records Request

Can you please provide an update to this request from January 2022?

From: Daniel Lennington <Dan@will-law.org>
Sent: Monday, September 19, 2022 8:30 AM
To: Public Records MMSD <publicrecords@madison.k12.wi.us>
Subject: RE: PR - Policy Records Request

Hello, I am again looking for an update. We are planning on a lawsuit because there is no possible explanation as to why you haven't responded. Please forward to your attorneys immediately.

Dan Lennington
Deputy Counsel
Equality Under the Law Project
Wisconsin Institute for Law & Liberty

Cell: 608-572-5358

Email: dan@will-law.org

Website: www.DefendEquality.org

Twitter: [@danlennington](https://twitter.com/danlennington)

From: Daniel Lennington <Dan@will-law.org>
Sent: Thursday, August 4, 2022 10:39 AM
To: Public Records MMSD <publicrecords@madison.k12.wi.us>
Subject: RE: PR - Policy Records Request

Hello – I am looking for an update on this request from January 31, 2022.

From: Public Records MMSD <publicrecords@madison.k12.wi.us>
Sent: Tuesday, March 8, 2022 2:33 PM
To: Daniel Lennington <Dan@will-law.org>
Subject: Re: PR - Policy Records Request

Dear Daniel Lennington,

Public records are reviewed in the order in which they are received. We will review this request as soon as practical.

Thank you,

On Mon, Mar 7, 2022 at 7:56 AM Daniel Lennington <Dan@will-law.org> wrote:

Hello – I am inquiring as to whether there is any update to this request.

Thank you,

Dan

From: Daniel Lennington <Dan@will-law.org>
Sent: Monday, January 31, 2022 11:28 AM
To: publicrecords@madison.k12.wi.us
Subject: PR - Policy Records Request

Good morning:

I am requesting an electronic copy of all records created, sent, received, or in effect since October 1, 2020,

1. requiring or recommending that elementary school teachers prioritize instruction to students who are African American and/or BIPOC. An example of this type of policy is depicted in the attached record, which is from a Wisconsin public school district. Please include both actual policies and proposed policies;
2. requiring or recommending that elementary school teachers meet with African American and/or BIPOC students first and/or more often than students in other racial groups. An example of this type of policy is depicted in the attached record, which is from a Wisconsin public school district. Please include both actual policies and proposed policies;

3. requiring or recommending that elementary school employees prioritize and/or group students based on race in service of your district's equity vision, mission, values, or other policies designed to promote Black excellence;
4. identifying the dates and times of staff meetings that were segregated by race. This would include any Outlook or other calendar invitations labeling certain staff meetings as "affinity groups" or similar terms depicting racial or ethnic separations.

Small Instructional Groups

It's important that our small instructional groups are created based on what is best for students and the way our school is operating during this time of school reopening during a pandemic. It is also important for us to prioritize and group our students in service of our SIP, equity vision, and black excellence.

Following these steps in creating your small instructional groups:

- Identify which students are face to face and group them together into small groups
- Identify which students are virtual and group them together into small groups
- Use student data to inform how to group students together
- Prioritize your African American students meeting with you first and more often
- Prioritize your English Language learners meeting with you second and more often
 - Here is [LV's list of ELLs](#) for your reference
- Group the rest of the students after you've prioritized your AA and ELL students

Small instructional groups should be created for reading, foundational skills, and math.

Dan Lennington

Deputy Counsel

Wisconsin Institute for Law & Liberty

Cell: 608-572-5358

Email: dan@will-law.org

Website: www.DefendEquality.org

Twitter: [@danlennington](https://twitter.com/danlennington)