

BBD & Blitz, Bardgett & Deutsch, LC

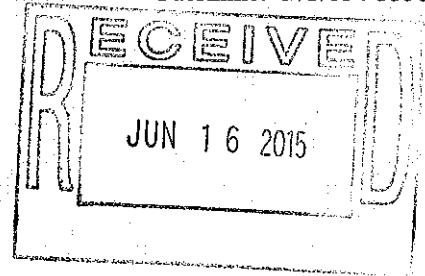
Attorneys & Counselors at Law

St. Louis • Jefferson City

Marc H. Ellinger
308 East High Street, Suite 301
Jefferson City, MO 65101
www.bbdlc.com

E-mail: mellinger@bbdlc.com
Telephone: 573/634-2500
Facsimile: 573/634-3358

June 11, 2015



Custodian of Records
Springfield R-XII School District
1359 E. St. Louis
Springfield, MO 65802

Re: Open Records Request

To the Custodian of Records:

Pursuant to Section 610.023, RSMo, I am requesting the following open records:

Any and all contracts or agreements between the current Superintendent and/or the incoming Superintendent and the School District which are effective on or after June 1, 2015.

Because this request is for such a small number of documents, my preference is to receive the records in an electronic format. Section 610.023.3, RSMo, states that if the records are requested in a certain format, they shall be provided in that format, if available. Still, if the records must be produced in a hard-copy format, per Section 610.026, RSMo, we will pay the actual cost of copying the requested records; however, if the cost is to exceed \$100.00, please advise first of the cost charged and itemize the components included in the charge.

Please contact my office at 573/634-2500 as soon as the documents are ready to be picked up and we will make arrangements to pick them up and pay the cost of producing them. Thank you for your attention to this matter.

Sincerely,

Marc H. Ellinger, CPA
Attorney at Law

MHE:srh



Helping today's kids fill tomorrow's promise.

John E. Jungmann, Ed.D.
Superintendent

June 17, 2015

Mr. Marc H. Ellinger
Blitz Bardgett & Deutsch, L.C.
308 East High Street, Suite 301
Jefferson City, MO 65101

Dear Mr. Ellinger:

This letter will respond to your letter dated June 11, 2015, which was received by me on June 16, 2015. Your letter requests certain public records pursuant to the Missouri Sunshine Statute. More specifically, your letter requests the following:

“Any and all contracts or agreements between the current Superintendent and/or the incoming Superintendent and the School District which are effective on or after June 1, 2015.”

Initially, in order to be subject to disclosure under the Missouri Sunshine Law, documents must constitute “public records” of the “public governmental body.” In this case, the “public governmental body” is the Board of Education for the School District of Springfield, R-12. The term “public records” is defined in Section 610.010(6) RSMo. as follows:

(6) “Public record” -- *any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared and presented to the public governmental body by a consultant or other professional service paid for in whole or in part by public funds; including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting.*”

Thus, the term "public record" includes only those records, either written or electronic, that are already in existence that the public governmental body is "holding" or "retaining" in its possession. *Jones v Jackson County Circuit Court*, 162 S.W.3d 53, 59 (Mo App 2005).

The District will not provide you with public documents which may be encompassed by your request that are closed records. Included in these closed public documents are the following:


- The minutes of closed meetings of the Board of Education which were closed pursuant to Section 610.021 RSMo, and not otherwise required to be revealed;
- Privileged communications between the Board of Education or its representatives and its attorneys pursuant to Section 610.021(1) RSMo;
- Records involving the hiring, firing, disciplining or promoting of particular employees by the Board of Education when personal information about the employee is discussed or recorded, except those public records which have been made public pursuant to Section 610.021(3) RSMo;
- Records involving software codes for electronic data processing and documentation thereof pursuant to Section 610.021(10) RSMo;
- Documents related to a negotiated contract until a contract is executed, pursuant to Section 610.021(12) RSMo;
- Documents which constitute individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, pursuant to Section 610.021(13) RSMo;
- Records which are protected from disclosure by law pursuant to Section 610.021(14) RSMo;
- Confidential or privileged communications between a public governmental body and its auditors, including all auditor work product pursuant to Section 610.021(17) RSMo;
- Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of the District pursuant to Section 610.021(20) RSMo;
- Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between the Board of Education and a person or entity doing business with the Board pursuant to Section 610.021(21) RSMo.

With this explanation in mind, the Board responds as follows to your request:

Your request is approved by the District. The document you requested is attached.

Thank you for your request.

Sincerely,



Kathy L. Looten
Executive Office Liaison/Records Custodian

cc: Ransom Ellis, III

attachment