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Via Email to OCR@ed.gov

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Bldg.
400 Maryland Avenue, SW
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Via reporting portal at <https://civilrights.justice.gov/report/>

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U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main
Washington, D.C. 20530

Re: Complaint against Springfield Public Schools in Missouri for Violation of Title VI and Equal Protection

To Whom It May Concern:

Under the discrimination complaint resolution procedures of Office of Civil Rights (OCR) of the U.S. Department of Education and the Civil Rights Division (CRD) of the U.S. Department of Justice,¹ Southeastern Legal Foundation (SLF) brings this federal civil rights complaint against Springfield Public Schools (SPS) in Missouri for discriminating on the basis of race in violation of Title VI of the Civil Rights Act of 1964 and its implementing regulations,² the civil rights laws and the Equal Protection Clause of the Fourteenth Amendment.³

SLF is a national, nonprofit legal organization dedicated to defending liberty and Rebuilding the American Republic®. SLF works to combat government overreach, guard individual liberty, protect free speech, and secure property rights in the courts of law and public opinion. One of SLF's core issue areas is reclaiming civil liberties. Since 2021, SLF has been challenging SPS's

¹ The Civil Rights Division was created under the Civil Rights Act of 1957 and works to uphold the civil and constitutional rights of all persons in the United States. *See* U.S. Dept. of Justice, Civil Rights Division, <https://www.justice.gov/crt>.

² 42 U.S.C. §§ 2000d-2000d-7 (Title VI); 34 C.F.R. Part 100 (2022).

³ U.S. Const. amend. XIV, § 1.

racially charged teacher training.⁴ As such, SLF is familiar with the district's policies and its views on racial equality and stereotyping.

SPS is at war with the “self-evident truth” that all Americans are “created equal.”⁵ This foundational principle is nowhere in evidence at SPS, where equality is considered the enemy of progress and racial equity. The Constitution protects equality, not faddish notions of “equity.” This ideological shift from equality to equity is not merely semantic. It has profound legal implications, particularly considering the Constitution's mandate for colorblindness.

Equality and equity are not compatible concepts. Equality means colorblindness while equity rejects it. Equity demands color consciousness. SPS may dismiss equality as outdated, but it is not optional. More than 100 years ago the Fourteenth Amendment made colorblindness a requirement: “Our Constitution is color-blind, and neither knows nor tolerates classes among citizens.”⁶ SPS must restore its practices to align with constitutional mandates

OCR and CRD should investigate SPS, the largest school district in Missouri.⁷ The “just powers” of government exist to secure equality.⁸ SPS has long violated equal protection, Title VI, and its accompanying regulations. Despite recent efforts to conceal its discriminatory conduct by rebranding equity as “access and opportunity,”⁹ SPS's practices are largely unchanged.¹⁰

Thus, we request that OCR open an investigation, consider potential sanctions against the school district as authorized under Title VI, and place SPS on clear notice that failure to comply with federal law in its policies will result in the withdrawal of federal funding. Based on the same facts,

⁴ *Henderson v. Sch. Dist. of Springfield R-12*, 650 F. Supp. 3d 786 (W.D. Mo. 2023) (“*Henderson I*”), appeal docketed No. 23-1374 (8th Cir. Feb. 27, 2023).

⁵ The Declaration of Independence para. 2 (U.S. 1776).

⁶ *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.* (“*SFFA*”), 600 U.S. 181, 230 (2023) (quoting *Plessy v. Ferguson*, 163 U.S. 537, 559 (1896) (Harlan, J., dissenting)).

⁷ Springfield Public Schools R-12, Our District/About Our District (sps.org), <https://perma.cc/34S9-RM5G>.

⁸ The Declaration of Independence para. 2 (U.S. 1776).

⁹ See Springfield Public Schools R-12 – Departments/Student Access and Opportunity, <https://perma.cc/R5WD-FBDK>.

¹⁰ SPS was not the only organization to adopt the rebranding strategy. See, e.g., Kayla Haskins, *Is it Time to Rename our DEI Programs*, Seramount.com (Feb. 12, 2025) (discussing renaming “DEI” initiatives to “Opportunity and Access” to “sidestep political and legal attacks while continuing to uphold [] commitments to diversity, equity, and inclusion”), <https://perma.cc/52RG-L9J6>; Road2College, *DEI in Colleges Is Changing Fast: What Students and Families Need to Know*, Road2college.com (Mar. 12, 2025) (“Universities are Rebranding DEI to Keep It Alive” to avoid “triggering political backlash”), <https://perma.cc/QU2Z-XBLT>.

we request that CRD independently investigate SPS for violating the civil and constitutional guaranty of equal protection and seek an injunction barring future infractions.

Introduction

Despite its responsibilities to so many Missouri school children and notwithstanding that it accepts significant federal funds,¹¹ SPS has become a poster child for racial discrimination under the guise of “equity.”

Equity and equality may sound closely related, but they mean opposite things. Some—perhaps too charitably—understand equity to mean little more than it “opens opportunities and ensures a level playing field for all. . . . What could be more American than that?”¹² However sincere the beliefs of some may be, to SPS, equity means something far more nefarious. Equity, as SPS uses the term, means racial sorting, consciousness, shame, and stigmatization. And it comes at the expense of equality.

To SPS, equality stands in the way of progress and must be replaced by equity. As Judge Ho of the Fifth Circuit aptly said, “It’s the difference between securing equality of opportunity regardless of race and guaranteeing equality of outcome based on race. It’s the difference between color blindness and critical race theory.”¹³ In other words, equity is a repackaged term for disparate impact theory.

Disparate impact theory demands treating *individuals* differently based on their race to achieve equality of results between racial *groups*. That means treating them on unequal terms. And that is what SPS means by equity, as demonstrated below.

SPS’s concept of equity undermines its constitutional obligations. It is so devoted to equity that it argued to a federal court that it “*cannot be colorblind*” because some “may view . . . ‘colorblindness’ as white supremacy”¹⁴ SPS even endorsed the critics of Justice Harlan’s powerful dissent against segregation laws in *Plessy v. Ferguson* who argue it “gave opponents of

¹¹ Springfield Public Schools R-12, 2025-2026 Budget, The School District of Springfield R-12 Executive Summary Budget Message 2025–2026 Fiscal Year, <https://perma.cc/Z8S4-M3E9> (“2025-2026 Budget, The School District of Springfield, R-12”).

¹² *Nat’l Ass’n of Diversity Officers in Higher Educ. v. Trump*, No. 25-1189 at 5 (4th Cir. Mar. 14, 2025) (order granting stay pending appeal) (Diaz, C.J., concurring).

¹³ *Rollerson v. Brazos River Harbor Navigation Dist.*, 6 F.4th 633, 648 (5th Cir. 2021) (Ho, J., concurring in part and concurring in the judgment). And as shown below, SPS specifically trained its leadership team in critical race theory.

¹⁴ Suggestions in Opposition to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. Aug. 12, 2022), ECF No. 80 at 78, 80 (“Suggestions in Opposition to Plaintiffs’ Motion for Summary Judgment”) (emphasis added), available [here](#).

Black advancement the language of colorblindness to protect white supremacy while feigning a commitment to equality.”¹⁵ SPS’s view of colorblindness is as appalling as it is legally wrong. It is imperative that federal officials step in when a federal funding recipient is so at war with our proudest constitutional traditions.

By characterizing colorblindness as a tool of white supremacy, SPS has perfectly demonstrated how equity corrupts equality (to say nothing of language). Within one year of SPS arguing against Justice Harlan’s view of a colorblind Constitution, the Supreme Court again affirmed that the “Constitution *is* color-blind” while it quoted Justice Harlan.¹⁶ Indeed, SPS has proven Justice Scalia providential. He warned that one day we would realize that “the war between disparate impact and equal protection will be waged sooner or later”¹⁷ That war has come to Springfield and SPS has chosen a side.

The only reason why SPS found itself in federal court to argue against colorblindness was because of training SPS administered in 2021. This put a national spotlight on the district. With its fall “equity” training, SPS demonstrated exactly what equity looked like in practice.¹⁸ Two SPS educators, represented by SLF, sued over violations of their First Amendment rights to halt the chilling and compelling of speech during equity training.¹⁹ While they raised public awareness about SPS’s practices through their willingness to stand up for their own free speech rights, their still-pending case did not raise equal protection violations or Title VI claims. Meanwhile, SPS’s practices have persisted, despite thin efforts to rebrand its commitment to equity as “access and opportunity.”²⁰

Although federal officials should have intervened by now, they did not. It should come as no surprise because the last administration was eager to impose equity. President Biden “directed the

¹⁵ *Id.* at 78 n. 13 (quoting Olwyn Conway, *Are There Stories Prosecutors Shouldn’t Tell?: The Duty to Avoid Racialized Trial Narratives*, 98 Denv. L. Rev. 457, 467–68 (2021)).

¹⁶ *SFFA*, 600 U.S. at 230 (emphasis added) (quoting *Plessy*, 163 U.S. at 559 (Harlan, J., dissenting)).

¹⁷ *Ricci v. DeStefano*, 557 U.S. 557, 595–96 (2009) (Scalia, J., concurring).

¹⁸ Sam Dorman, *Missouri diversity session tells teachers ‘colorblindness,’ ‘all lives matters’ are forms of white supremacy*, Fox News (Jan. 21, 2024, 10:23 P.M.), <https://perma.cc/4ZTV-3LE4>.

¹⁹ *Henderson I*, appeal docketed, No. 23-1374 (8th Cir. Feb. 27, 2023). Their case is pending en banc review before the Eighth Circuit.

²⁰ See Springfield Public Schools R-12 – Departments/Student Access and Opportunity, <https://perma.cc/R5WD-FBDK>; see also Springfield Public Schools R-12, 2023 - 2028 Strategic Plan – 2024 Update, p. 9 (“Objective 1.4: Review programming to ensure equitable access to opportunity for all students.”), <https://perma.cc/3HXP-CT5F> (“2023 - 2028 Strategic Plan – 2024 Update”).

whole of the federal government to advance an ambitious equity and racial justice agenda,”²¹ and so his subordinates did nothing to protect the parents, children, and the taxpayers in this district. State officials certainly did what they could. Attorneys General from around the country—including then-Missouri Attorney General Andrew Bailey—supported the two educators through *amicus* briefs.²² However, those state attorneys general lack the authority to enforce federal law or the Fourteenth Amendment.²³ Federal officials should have taken the reins in 2021 rather than leaving it to the two educators to defend one of the Constitution’s most sacred promises. But those federal officials instead loudly proclaimed their commitment to advancing “an ambitious, whole-of-government approach to racial equity” and supporting “implementation of a comprehensive equity strategy . . . to yield equitable outcomes.”²⁴ SPS had no reason to fear federal intervention, no matter how much they flaunted Title VI.

It is not too late for federal intervention. Rather than end its equity initiatives once the federal government resumed its historic role in ensuring equality by ending funding for recipients who engage in destructive racial conduct,²⁵ SPS just relabeled its equity initiatives. While SPS undoubtedly considers them to be an important progressive step and Title VI to be inadequate and

²¹ See The White House, Fact Sheet: Biden-Harris Administration Releases Agency Equity Action Plans to Advance Equity and Racial Justice Across the Federal Government (2022), <https://perma.cc/PF3B-D5R6>.

²² Press Release, Missouri Attorney General, Attorney General Bailey Leads 16 States in Opposing Springfield School Districts Unconstitutional DEI Trainings (May 25, 2023), <https://perma.cc/L3WQ-4UJS>.

²³ See 42 U.S.C. § 2000d-1 (empowering federal agencies to issue rules to enforce Title VI); *Alexander v. Sandoval*, 532 U.S. 275, 289 (2001) (Title VI regulations only enforceable by federal officials). And the United States has a statutory right to intervene any time an action seeking relief from the denial of equal protection under the Fourteenth Amendment is filed in a federal court. 42 U.S.C. § 2000h-2.

²⁴ Exec. Order No. 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, 88 Fed. Reg. 10825, 10826, 10828 (Feb. 22, 2023).

²⁵ See Exec. Order No. 14242, Improving Education Outcomes by Empowering Parents, States, and Communities, 90 Fed. Reg. 13679, 13680 (Mar. 25, 2025) (“[T]he Secretary of Education shall ensure that the allocation of any Federal Department of Education funds is subject to rigorous compliance with Federal law and Administration policy, including the requirement that any program or activity receiving Federal assistance terminate illegal discrimination obscured under the label ‘diversity, equity, and inclusion.’”); Exec. Order No. 14190, Ending Radical Indoctrination in K-12 Schooling, 90 Fed. Reg. 8853, 8853–54 (Feb. 3, 2025); Exec. Order No. 14148, Initial Rescissions of Harmful Executive Orders and Actions, 90 Fed. Reg. 8237, 8237 (Jan. 28, 2025) (“The previous administration has embedded deeply unpopular, inflationary, illegal, and radical practices within every agency and Office of the Federal Government. The injection of ‘diversity, equity, and inclusion (DEI)’ into our institutions has corrupted them by replacing hard work, merit, and equity with a divisive and dangerous preferential hierarchy.”); see also Exec. Order No. 14279, Reforming Accreditation to Strengthen High Education, 90 Fed. Reg. 17529, 17529–30 (Apr. 28, 2025).

outdated, it does not matter. SPS's ongoing practices contravene well-established legal standards under Title VI and the Equal Protection Clause, as detailed below.

SLF respectfully requests OCR and CRD investigate SPS for its practices as violative of both Title VI and denial of equal protection of the law.

Facts

To understand the scope of SPS's conduct, it is necessary to examine the district's structure and policies in detail.

Springfield Public Schools

SPS is an urban school district created under the laws of the State of Missouri.²⁶ It is governed by seven locally-elected school board members.²⁷ It manages 35 elementary schools, an intermediate school, nine middle schools, five high schools, and four early childhood centers, serving approximately 24,500 Pre-K through high school students, and it is supposed to create educational policies and goals for those schools.²⁸ It employs about 2,200 certified staff and approximately 1,300 non-certified staff.²⁹ SPS receives federal funding and thus is subject to Title VI of the Civil Rights Act of 1964.³⁰ And although Missouri school districts generally operate as local political subdivisions,³¹ they are, like any locality, obligated to provide equal protection under the law.³²

SPS embeds equity into its operations

On May 21, 2019, SPS passed a "resolution to Affirm Commitment to Equity and Inclusivity" in all of its operations.³³ In line with its commitment, it amended its Strategic Plan to include a new

²⁶ Mo. Rev. Stat. § 162.461 et seq.

²⁷ Mo. Rev. Stat. § 162.471(1).

²⁸ Springfield, Public Schools R-12, About SPS/Our District, <https://perma.cc/7GK9-Z3LM>.

²⁹ Affidavit of Dr. John Jungman, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 75-3 at 3, ¶ 8 ("Affidavit of Dr. John Jungman"), available [here](#).

³⁰ 2025-2026 Budget, The School District of Springfield, R-12, *supra* note 11. SPS is therefore fully capable of being sued in federal court. Section 1003 of the Rehabilitation Act "expressly abrogated" the sovereign immunity of federal funding recipients. *Sandoval*, 532 U.S. at 280 (citing 42 U.S.C. § 2000d-7).

³¹ See *P.L.S. v. Koster*, 360 S.W.3d 805, 815 (Mo. Ct. App. 2011).

³² *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); see also *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 283–84 (1986) (racial preference discriminating against white employees enacted by local school boards violates equal protection); *Avery v. Midland Cnty.*, 390 U.S. 474, 480 (1968) (equal protection applies to local governments).

³³ Affidavit of Dr. John Jungman at 5–6, ¶ 17, *supra* note 29 (citing SPS Board's Resolution to Affirm Commitment to Equity and Inclusivity (May 21, 2019)).

focus area known as Focus Area 5 – Equity and Diversity.³⁴ Previously, SPS’s Strategic Plan’s four “Focus Areas” were focused on core mission areas of a school district.³⁵ SPS explained that Covid had “propelled districts” to address “racial injustice against the Black community” that were “brought on” by the pandemic.³⁶

Subsequently, SPS added the following strategies to Focus Area 5:

5.1.1: Facilitate learning opportunities for staff and leaders that foster exploration of identity and self and create applications to demonstrate cultural consciousness in their work.

5.1.2: Develop and deploy improved recruitment, collaboration and communication structures to enhance and diversify the workforce.

5.1.3: Review, improve and expand programming and services for under-resourced and underrepresented students.

5.1.4: Review and expand the curriculum to reflect student identities, lived experiences, cultural history and significant contributions.

5.1.5: Research, develop and deploy engagement and advocacy policy, practices, and programs that support students and staff, and foster greater community engagement.

SPS immediately implemented these strategies. In August 2019, SPS also formed a committee called the “Equity and Diversity Advisory Council,” or EDAC.³⁷ EDAC’s “driving question” was what actions should SPS employ to ensure student excellence “with an intentional focus on historically under-represented and under-resourced groups” and to propose specific action-items.³⁸ EDAC meetings in August and September of 2019 included “Mini-Diversity Workshop Sessions”

³⁴ *Id.* at 10, ¶ 33 (citing SPS Strategic Plan).

³⁵ Those four Focus Areas were: “Student Success and Learning Support”; “Empowered and Effective Teachers, Leaders and Support Personnel”; “Financial Sustainability and Operational Efficiency”; and “Communities and Engagement.” *See* Affidavit of Tammi Harrington, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 75-5 at 1–2, ¶ 2, available [here](#); *see id.* at 21–24 (copy of SPS’s strategic Plan).

³⁶ Springfield Public Schools R-12, End of Year Report Focus Area 5: Goal 1 Strategic Plan Update at 3 (Dec. 8, 2020), <https://perma.cc/G4QM-CHP8> (“End of Year Report Focus Area 5: Goal 1 Strategic Plan Update”).

³⁷ Affidavit of Dr. John Jungman at 6, ¶ 18, *supra* note 29.

³⁸ *Id.* at 6, ¶ 20 (quoting agenda, meeting minutes, and attached documents of the Equity and Diversity Advisory Council (Aug. 27, 1019)); *see also id.* at 6–7, ¶¶ 18–19, 21.

provided by the Chief Equity Officer at Missouri State University, Wes Pratt.³⁹ And during the Fall of 2019, SPS required its employees take “Equity Training.”⁴⁰ SPS strove to make sure that equity and inclusion were “no longer just goals,” but “part of [their] work and job responsibilities,” to which “we must commit.”⁴¹

On September 9, 2019, SPS also hired Missouri State’s Executive Director of Multicultural Programs to serve as its new Chief Equity and Diversity Officer, Dr. Yavaina Garcia-Pusateri.⁴² Her responsibilities included leading and implementing SPS’s equity and diversity strategies.⁴³ In short, she oversaw implementing Focus Area 5.⁴⁴

SPS trains its leaders to implement equity throughout the district

Next, SPS trained its leadership on what it understood to be “critical race theory.” As a condition of her employment, Dr. Garcia-Pusateri, along with other leaders at SPS, trained at the “Facing Racism” Institute at Missouri State as part of the 2019 Fall Leadership Series.⁴⁵ One of its stated objectives was to “introduce the components of critical race theory from educational research with applications to the district.”⁴⁶ SPS reported that the “training objectives were addressed through the introduction of the following content areas: . . . an introduction to a critical race theory perspective, including empirical analysis, . . .”⁴⁷ In total, 169 SPS staff members received this training.⁴⁸

SPS continued to build out its commitment to equity over the 2019-2020 school year. It created “Equity Champions” under the supervision of the Department of Equity and Diversity who were staff members on-site tasked with “leading and deploying equity initiatives.”⁴⁹ They were required to take four quarterly hours of focused equity training sessions and participate in the District-Wide Equity training and the Facing Racism Institute.⁵⁰ SPS also implemented an “equity growth

³⁹ *Id.* at 7, ¶ 22 (citing agenda, meeting minutes, and attached documents of the Equity and Diversity Advisory Council (Aug. 27, 2019, and Sept. 10, 2019)).

⁴⁰ *Id.* at 8–9, ¶ 28 (citing SPS Equity Training Fall 2019).

⁴¹ Deposition of Yvania Garcia-Pusateri, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-4 at 15:16–17 (“Deposition of Yvania Garcia-Pusateri”), available [here](#); Ex. 9 to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-9 at 10 (“Ex. 9”), available [here](#).

⁴² Deposition of Yvania Garcia-Pusateri at 13:3, 14:23–15:5, *supra* note 41.

⁴³ *Id.* at 15:6–14.

⁴⁴ *Id.* at 16:23–17:11.

⁴⁵ *Id.* at 12:23–13:1.

⁴⁶ End of Year Report Focus Area 5: Goal 1 Strategic Plan Update at 8, *supra* note 36.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 9.

⁵⁰ *Id.*

learning plan” for both the Executive and Senior Leadership Teams.⁵¹ The goals were to establish a structure to grow and develop in equity and diversity, to educate leaders about the “intersections of identity,” and to create a “culture of care” that included advocating for every student to have their “identities acknowledged, supported and affirmed”⁵²

In the Fall of 2020, SPS forced its staff into a hostile, racially-charged environment through District-Wide Equity Training

In the Fall of 2020, SPS garnered national attention when it required its entire staff other than leadership to attend the equity training.⁵³

Before the sessions, SPS primed the pump by telling educators what to expect. On June 2, 2020, about three months before SPS began the presentations Dr. Garcia-Pusateri emailed SPS’s certificated teachers and staff to inform them that it was their “responsibility to be equity champions.”⁵⁴ The email included hyperlinks to a series of articles about equity and diversity including: (1) “The Anti-Racist Reading List: Because allyship can’t be proven with a few social media posts,” (2) “For Our White Friends Desiring To Be Allies,” and (3) “Stop Asking People Of Color To Explain Racism—Pick Up One of These Books Instead.”⁵⁵

The linked articles engaged in relentless negative racial stereotyping and expressed statements undermining notions of colorblindness. SPS circulated one article that said, “Privilege means that you owe a debt. . . . It is up to you whether you choose to pay this debt and how you choose to do so. . . . [A] system of white privilege afforded you access to opportunities while denying them to so many others.”⁵⁶

“For Our White Friends Desiring To Be Allies,” exemplified the way that SPS undermined colorblindness and reinforced stereotypical notions like “white privilege.”⁵⁷ It raised “six things you can do to be stronger allies,” including:

⁵¹ *Id.* at 10.

⁵² *Id.*

⁵³ Joint Stipulation of Facts, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-1 at 4, ¶ 8 (describing training as “required”) (“Joint Stipulation of Facts”), available [here](#); see also Dorman, *supra* note 18.

⁵⁴ E-mail from Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12, to Certified Teachers and Staff, Springfield Public Schools R-12 (June 2, 2020, 16:30 CT) (available at Ex. 8 to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-8 at 1 (“Ex. 8”), available [here](#)).

⁵⁵ Ex. 8 at 2–66, *supra* note 54.

⁵⁶ *Id.* at 51–52.

⁵⁷ See *id.* at 50–52.

[S]top talking about colorblindness. . . . It will never be possible for us to be colorblind, and we shouldn't ever want to be. . . . We have to name these things, acknowledge them, and begin to do the deep work of transformation, restoration – and reparation. . . . Privilege means that you owe a debt. . . . It is up to you whether you choose to acknowledge the work that is yours to do. It is up to you whether you choose to pay this debt and how you choose to do so. . . . I urge you to pursue this work, knowing that a system of white privilege afforded you access to opportunities while denying them to so many others.⁵⁸

“Stop Asking People Of Color To Explain Racism—Pick Up One Of These Books Instead,” was more of the same. It states:

When I call [white people] on their racism, they practically come unglued. They swear they “didn’t mean anything by it” and “don’t have a racist bone” in their bodies. They might pipe up some ridiculous white sh— about black-on-black crime, the fact that they once dated a black person, the race card, colorblindness, All Lives Matter, or reverse racism. I can predict in almost every situation what the person is going to say before they say it. . . . Many of us are parents, and if we’re going to change the tide for future generations, we have to tackle race head-on instead of evading it or pretending we are, as many white people have told me, all- one- race- the-human-race.⁵⁹

While these were the readings SPS expected staff to understand before the training, SPS provided additional materials at the training.

Before the individual sessions began, SPS also provided trainees with a set of handouts including a land acknowledgment, a “Greetings!” handout, a copy of Focus Area 5, an “Oppression Matrix” and a graphic listing things that were covert and overt “white supremacy.”⁶⁰ These handouts were also slides in the PowerPoints used at the sessions.⁶¹ Through the handouts, SPS made clear that the looming training sessions would be an extension of its summer missive about white supremacy, oppression, and anti-racism, and that SPS expected staff not only to attend but to actively engage.⁶²

⁵⁸ *Id.* at 51–52.

⁵⁹ *Id.* at 56.

⁶⁰ See Joint Stipulation of Facts at 6–7, ¶ 16–17, *supra* note 53 (citing Ex. 9 at 1–9).

⁶¹ SPS used substantially the same slide presentation for all Equity Training sessions. See *id.* at 4–5, ¶ 9.

⁶² See Ex. 9, *supra* note 41.

The training began with a land acknowledgment that “acknowledge[d] the dark history and violence against Native and Indigenous People across the world.”⁶³ It displayed that the “Guiding Principles” were to “[a]cknowledge YOUR privileges” and “[h]old YOURSELF Accountable.”⁶⁴ It told them that they should expect to be uncomfortable.⁶⁵

Make no mistake—SPS intended to make its staff, the same ones who would convey these concepts to children, to experience discomfort by fostering a racially hostile climate. Later emails would confirm that Dr. Garcia-Pusateri *meant* for the training to be uncomfortable because “[s]taff cannot support these students if they are not willing to address these issues and start the work of becoming antiracist educators.”⁶⁶

To promote equity, SPS also sought to integrate these principles into the very fabric of their professional responsibilities, thereby intertwining discomfort with duty in the pursuit of becoming antiracist educators. SPS reinforced that equity was “more than a value, but now part of our work and job responsibilities” and that “we must commit to [it].”⁶⁷ SPS stressed that they were all “accountable to ensure Equity and Diversity” now that those concepts were embedded in the strategic plan.⁶⁸ Trainers repeated: “we will actively oppose racism by advocating for change. There is a proactive element in place to no longer remain silent or inactive.”⁶⁹ All employees were told that school principals would “communicate” an “anti-racist vision” and “intervene when they see problems.”⁷⁰

The overview of the training explained that trainees were going to learn about “Oppression, White Supremacy, and Systemic Racism,” reflect on the impact of current events like “[p]rotests against

⁶³ Office of Equity and Diversity Springfield Public Schools R-12, *Fall District-Wide Equity Training* at 6 (2021) (“Fall District-Wide Equity Training”), available [here](#).

⁶⁴ *Id.* at 7.

⁶⁵ *See id.* (“Lean into your discomfort”).

⁶⁶ E-mail from Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12, to Jason Anderson, Executive Director of Elementary Learning, Springfield Public Schools R-12 (Sept. 21, 2020, 16:38:01 CT) (available at Ex. 17 to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-17 at 1 (“Ex. 17”)), available [here](#).

⁶⁷ E-mail from Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12, to Erica D. Rosenbaum, Bissett Elementary Principal, Springfield Public Schools R-12 (Sept. 11, 2020, 9:43 CT) (available at Ex. 17 at 3, *supra* note 66), available [here](#).

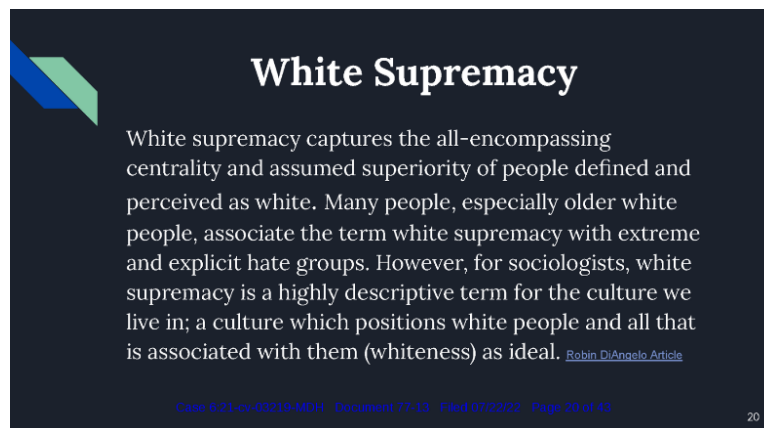
⁶⁸ Ex. 9 at 10, *supra* note 41.

⁶⁹ Ex. 16 to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-16 at 39 (“Ex. 16”), available [here](#).

⁷⁰ Fall District-Wide Equity Training at 35, *supra* note 63. “Anti-racism” is a term that SPS defined with specificity late in the training. *See infra* at p. 17–18.

Systemic Racism towards the Black Community,” and engage in “identity development.”⁷¹ SPS’s unalloyed goal was for trainees to accept the “tools on how to become Anti-Racist educators, leaders, and staff members of SPS.”⁷²

Rather than address racism in all its forms, the training focused exclusively on “white supremacy,” and it did so in a sweeping manner that stereotyped white individuals as the only race capable of racism.⁷³



According to SPS, “oppression” was something that only some races—or “dominant social groups”—could be guilty of.⁷⁴ The trainers left no doubt that trainees were to accept that it meant white people were the “dominant” group that oppressed minorities. They went so far as to tell one staff member that “black people cannot be racist.”⁷⁵ When challenged on the definitionally racist idea that black people can *never* be racist, the trainers told her that questioning them demonstrated racial privilege and that she “needed to reflect on [her]self some more.”⁷⁶ While shaming those who question authority is the very picture of thought control, it was central to the training. SPS warned trainees throughout that denying one’s privilege is *also* a form of white supremacy.⁷⁷

And SPS taught that “white supremacy” is everywhere. Per SPS, “white supremacy” is a “highly descriptive term for the culture we live in,” capturing “the all-encompassing centrality and

⁷¹ *Id.* at 8.

⁷² *Id.*

⁷³ *Id.* at 20.

⁷⁴ *Id.* at 16.

⁷⁵ Declaration of Jennifer Lumley, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-3 at 5, ¶ 27, available [here](#).

⁷⁶ *Id.* at 6, ¶ 28; *see also id.* at 5.

⁷⁷ Declaration of Brooke Henderson, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-2 at 6, ¶ 33 (“Declaration of Brooke Henderson”), available [here](#).

assumed superiority of people defined and perceived as white.”⁷⁸ This definition extends well beyond the traditional, shared understanding of white supremacy, framing it as a pervasive cultural norm that privileges white individuals. Under it, America is so structurally racist that white people are inherently the beneficiaries without even knowing it and white individuals are complicit and oblivious. Through this definition, SPS was defining white supremacy down to embrace the utterly mundane. The implications of this idea are profound because who would not push for dramatic, even revolutionary, change, if they lived in a white supremacist culture?

SPS’s depiction of present-day America employed negative racial stereotypes. First, its formulation posits that only some races are capable of racism. Second, it generalizes behavior, implying that all white individuals benefit from and contribute to a system that upholds white superiority. That means that all white people are complicit in racism, regardless of their individual beliefs or actions. Third, it reduces individual identity by categorizing people based on their race. This reductionist view stereotypes white people as a monolithic group, ignoring their diverse backgrounds, experiences, and perspectives. It would surprise Italian, Slavic, Irish, and English immigrants to learn that their diverse cultures, customs, religions, and language are indistinguishable to future generations and that, in actuality, they are all pretty much one and the same.

Fourth, the assumption that “whiteness” is positioned as ideal reinforces the idea that white people are culturally superior, or that non-white persons cannot find success in America. This is a corrosive idea that can only further destabilize the foundations of the country. Fifth, and perhaps most dangerous, it implies inherited racial guilt, which is perhaps the point. If true, all white individuals owe a debt due to the crimes of other members of their race and that they uphold white supremacy simply by existing within a system that privileges whiteness. Ironically, this vision is destructive to the goal of racial harmony because it is likely to lead to defensiveness or disengagement rather than constructive dialogue about race and privilege.

SPS further engaged in negative racial stereotyping based on its telling of American history that vilified white males for historical atrocities. The “White Supremacy” slide contained a [video](#) entitled “Understanding White Supremacy (And How to Defeat It).”⁷⁹ It explains that white supremacy originated when European explorers “ruthlessly killed and enslaved every indigenous population that they came across.”⁸⁰ It also explained that “European philosophers and thinkers”

⁷⁸ Fall District-Wide Equity Training at 20, *supra* note 63.

⁷⁹ *Id.* at 21 (act.tv, *Understanding White Supremacy (And How to Defeat It)*, YouTube (Sept. 12, 2017), www.youtube.com/watch?v=0gqQzbp5wk4&t=1s).

⁸⁰ *Understanding White Supremacy (And How to Defeat It)*, YouTube at 0:18 (Sept. 12, 2017), www.youtube.com/watch?v=0gqQzbp5wk4&t=1s.

developed a theory of “racial biology” to “classify humanity. . . with white men naturally at the top.”⁸¹ It then explained that white supremacy today is attributable to “subconscious fears in white populations” to rising minority populations because “a lot of white people feel threatened by diversity.”⁸² SPS’s message in showing this video was not subtle—anyone who doesn’t like diversity initiatives is a white supremacist trying to perpetuate white supremacy.

Not much has changed for race relations in America to SPS. SPS told staff, “In the United States, systems of oppressions [sic] (like systemic racism) are woven into the very foundation of American culture, society, and laws. . . . Society’s institutions, such as government, education, and culture, all contribute or reinforce the oppression of marginalized social groups while elevating dominant social groups.”⁸³ Through a one-sided version of history only focused on one culture’s historical injustices, SPS negatively stereotyped white males as complicit in all manner of historic atrocities that confer unearned privileges on all white individuals today. This selective history was calculated to induce a sense of shame, collective guilt, and for trainees to accept an obligation to atone for crimes for which they are not culpable.

If SPS’s worldview was correct, any decent person would be driven to insist on dramatic change. The existing order and the constitutional guaranty of colorblindness are indistinguishable from the Jim Crow-South. SPS turned to instructing its employees on what to do.

Having laid the ideological groundwork, SPS pushed them to act. The path forward meant they needed to, “[n]umber one, own your privilege” because there are “unearned privileges that you were born with” such as “growing up in a stable home”⁸⁴ The video also urged SPS staff “to support [private, non-governmental] organizations” recommended by name in the video.⁸⁵ These groups were worthy because they “foster[] their own sense of identity, community, and purpose,” in contrast to white supremacists who “need violence and conflict to validate their fear of diversity.”⁸⁶ SPS’s video explained that white supremacists need violence which was “why they usually plan rallies in ultraliberal communities.”⁸⁷ The us v. them strategy employed by SPS left no room for disagreement or tolerance.

⁸¹ *Id.* at 0:42, 1:04.

⁸² *Id.* at 1:37.

⁸³ Fall District-Wide Equity Training at 16, *supra* note 63.

⁸⁴ *Id.* at 21 (*Understanding White Supremacy (And How to Defeat It)*, YouTube at 2:17–2:24).

⁸⁵ *Id.* (*Understanding White Supremacy (And How to Defeat It)*, YouTube at 2:38 (recommending support for “Life After Hate”)).

⁸⁶ *Id.* (*Understanding White Supremacy (And How to Defeat It)*, YouTube at 2:42–2:52).

⁸⁷ *Id.* (*Understanding White Supremacy (And How to Defeat It)*, YouTube at 2:52–2:53).

The training instructed that white supremacy is not just a label for the KKK—it includes anyone who believes in *colorblindness* or says that all lives matter.⁸⁸

White	Supremacy
OVERT	COVERT
WHITE SUPREMACY	WHITE SUPREMACY
Socially Unacceptable	Socially Acceptable
LYNCHING	MASS INCARCERATION
HATE CRIMES	BIPOC AS HALLOWEEN COSTUMES
BLACKFACE	PRIORITIZING WHITE VOICES AS EXPERTS
THE N-WORD	NOT BELIEVING EXPERIENCES OF BIPOC
SWASTIKAS	ENGLISH-ONLY INITIATIVES
NEO-NAZIS	COLORBLINDNESS
BURNING CROSSES	WHITE SAVIOR COMPLEX
KKK	RACIAL PROFILING
RACIST JOKES	SCHOOL-TO-PRISON PIPELINE
RACIAL SLURS	DISCRIMINATORY LENDING
CALLING THE POLICE ON BLACK PEOPLE	HIRING DISCRIMINATION
EDUCATION FUNDING FROM PROPERTY TAX	BLAMING THE VICTIM
CULTURAL APPROPRIATION	TOKENISM
TREATING KIDS OF COLOR AS ADULTS	TONE POLICING
EUROCENTRIC CURRICULUM	WHITE SILENCE
	CLAIMING REVERSE-RACISM
	RACIST MASCOTS
	ALL LIVES MATTER

Work adapted by Ellen Tuzzolo; Director of Southern Initiative for Justice Policy Institute from the original work by Safehouse Progressive Alliance for NonViolence

It said that those commendable concepts were actually “were socially acceptable” forms of white supremacy.⁸⁹ SPS taught its educators to reject colorblindness again and again. According to SPS, colorblindness has “harmful impacts,” and equality “takes in colorblindness,” perfectly embodying how equity is hostile to equality and colorblindness.⁹⁰ SPS was forthright that it did not believe that “colorblindness [was] an equitable concept,”⁹¹ never once mentioning that it was required by federal law.

The slideshow also displayed an “Oppression Matrix” that also engaged in racial stereotyping.⁹² It labeled white people as privileged oppressors and all other races as oppressed.⁹³

⁸⁸ *Id.* at 22.

⁸⁹ *Id.*

⁹⁰ Deposition of Yvania Garcia-Pusateri at 66:24–25, 68:7–11, *supra* note 41.

⁹¹ *Id.* at 66:16–18.

⁹² Fall District-Wide Equity Training at 17, *supra* note 63.

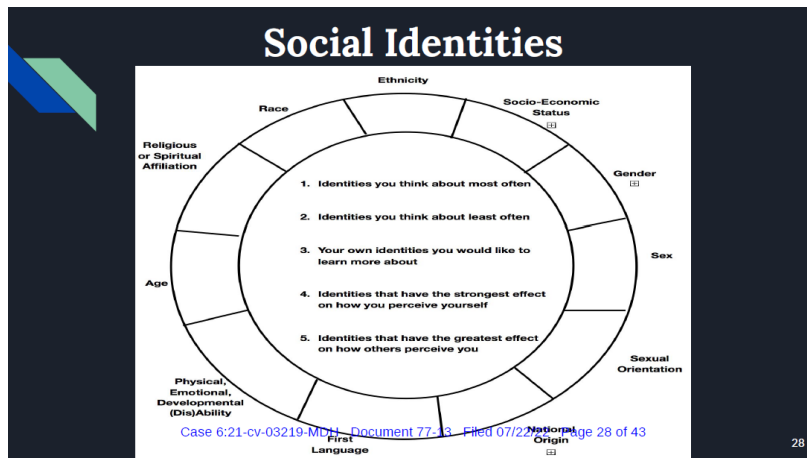
⁹³ *Id.*

Oppression

TYPE OF OPPRESSION	PRIVILEGED SOCIAL GROUP	BORDER SOCIAL GROUPS	OPPRESSED SOCIAL GROUPS	SOCIAL IDENTITY CATEGORY
RACISM	White People	Biracial People	Asian, Black, Latina/o, Native People	Race
SEXISM	Male assigned at birth	Intersex People	Female assigned at birth	Sex
TRANSCENDER OPPRESSION	Gender conforming cis-men and women	Gender ambiguous cis-men and women	Transgender, Genderqueer, Intersex People	Gender
HETEROSEXISM	Heterosexuals	Bisexuals	Lesbians, Gay men	Sexual Orientation
CLASSISM	Rich, Upper Class People	Middle Class People	Working Class, Poor People	Class
ABLEISM	Able-bodied People	People with Temporary Disabilities	Disabled People	Ability/Disability
RELIGIOUS OPPRESSION	Protestants	Roman Catholic (historically)	Jews, Muslims, Hindus, Sikhs	Religion
AGEISM/ADULTISM	Adults	Young Adults	Children	Age

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SPS continued to further racial stereotypes with its “Social Identities” chart, that requested the trainees fill in their various races, ethnicities, sex, gender, sexual orientation and so on.⁹⁴



The “Social Identities” chart was perhaps the most demeaning of all stereotypes because at bottom it assumed that we all just a lump of various superficial traits rather than individuals who should be treated to equal worth.⁹⁵ This chart was presented after a “Terminology” Slide that defined “Privilege” as a “set of unearned benefits given to people who fit into a specific social group (i.e., race, gender, sexual orientation, religion, ability, socioeconomic status).”⁹⁶ The chart, combined with the “Oppression Matrix” and the definition of privilege, flattened each individual into a collection of superficial characteristics that society values more, or less, because of prejudice. The

⁹⁴ *Id.* at 28.

⁹⁵ *Id.*

⁹⁶ *Id.* at 26.

chart can only be calculated to foster a sense of guilt and responsibility for one's unearned privileges.

The training did not just have a political worldview, it was overtly partisan, comparing President Trump supporters to white supremacists. One slide had an embedded [video](#) that compared then-President Trump to a Klansman.⁹⁷



(captioned, “White Supremacy*,” “*Now with White House Allies!”).⁹⁸ In some sessions, SPS taught that the slogan, “Make America Great Again,” was a form of white supremacy.⁹⁹

⁹⁷ *Id.* at 21 (*Understanding White Supremacy (And How to Defeat It)*, YouTube at 1:31).

⁹⁸ *Id.*

⁹⁹ Ex. 16 at 25, *supra* note 69.



SPS suggested President Trump Supporters were racist. After telling trainees in advance that they would reflect on current events including protests “*against Systemic Racism towards the Black Community*,”¹⁰⁰ SPS proceeded to show images of the protests.¹⁰¹ Opening segments of the video showed an African-American man getting his temperature scanned, a body being wheeled on a gurney, and a chart reflecting COVID deaths in several countries, with the most deaths per 100K being in the United States.¹⁰² Thereafter, the embedded [video](#) depicted protestors conspicuously wearing Trump paraphernalia and protesting Covid restrictions.¹⁰³ The clear suggestion was that Trump supporters who opposed Covid restrictions were the ones who were actually defending systemic racism towards black Americans.

This was not the only way that SPS tried to influence the politics of their employees. One educator remembered being told that it was her duty to vote for socialists and to teach students to do the same because “parents aren’t always correct.”¹⁰⁴ This occurred after SPS told staff that a “divisive election” was coming.¹⁰⁵

¹⁰⁰ Fall District-Wide Equity Training at 8, *supra* note 63 (emphasis added).

¹⁰¹ *Id.* at 14.

¹⁰² *Id.* (video at 0:10–0:23).

¹⁰³ *See, e.g., id.* (video 0:32–0:41).

¹⁰⁴ Declaration of Brooke Henderson at 8, ¶ 43, *supra* note 77.

¹⁰⁵ District-Wide Equity Training Fall 2020 Script & Slide Breakdown, Ex. 15 to Plaintiffs’ Motion for Summary Judgment, *Henderson I*, (W.D. Mo. July 22, 2022), ECF No. 77-15 at 8, available [here](#).

Having broken the trainees under the weight of collective guilt or anger and disarming any possible dissent branding it as further proof of white supremacy, SPS closed its training with a directive. Staff were told they needed to be “anti-racists” “by advocating for change,” the very thing that SPS assured them was the goal of the training at its outset.¹⁰⁶ Like equity, anti-racism is a vague term that can easily be accepted as having an innocuous meaning; after all, why not be against racism? That is not what SPS meant, and it said so.

SPS defined the term. It defined it to mean a form of highly partisan and revolutionary political advocacy, all to advance what it said all along was its goal: equity. With an image of a Black Panther revolutionary displayed, SPS defined anti-racism as “the work of actively opposing racism by advocating for changes in political, economic, and social life.”¹⁰⁷ Through the embedded [video](#) produced for the “Black Lives Matter Week of Action 2020,” SPS explained that educators needed anti-racist training because “racism is steeped into the foundation of our country. The United States is a settler colony built on white supremacy and capitalism.”¹⁰⁸ This political messaging was further infused racial stereotyping. The video stressed that America “lifts up white people over everyone else and values their lives more. This combined with capitalism is the foundation of our country.”¹⁰⁹

What SPS meant by “anti-racist” was clear—accept that America is steeped in white supremacy, that white individuals owe a racial debt, personally assume individual culpability for crimes committed by other members of the same race long ago, and advocate for a fundamental reordering of the American political, economic, and social life.

SPS made no pretense at all that it was just trying to persuade its employees. It went to great lengths to emphasize this was part of their job. SPS told all trainees that they were “now accountable” because equity was part of the district’s strategic plan and “part of [their] work and job responsibilities.”¹¹⁰ That conveyed that their jobs depended on them instilling the same values in their work with the students. All staff saw that the principals in charge of their schools were to “communicate the anti-racist vision for their school.”¹¹¹ The trainees were then expected pledge their commitment by writing a statement that included detailing the “steps” they will take to “become an Anti-Racist” and to list the “tools/support” they needed “to be Anti-Racist.”¹¹² SPS

¹⁰⁶ Ex. 16 at 39, *supra* note 69; *see also* Fall District-Wide Equity Training at 8, *supra* note 63.

¹⁰⁷ Fall District-Wide Equity Training at 31, *supra* note 63.

¹⁰⁸ Racial Justice, *Why do Educators need Anti-Racist Training?*, YouTube at 0:04–0:11 (Feb. 5, 2020), www.youtube.com/watch?v=7GMTpAZb4Hw.

¹⁰⁹ *Id.* at 0:16–0:25.

¹¹⁰ Ex. 9 at 10, *supra* note 41.

¹¹¹ Fall District-Wide Equity Training at 35, *supra* note 63.

¹¹² *Id.* at 38.

expected them to take this anti-racist pledge to ensure that the educators in charge of the children would spread its racist dogma throughout the school district.

In sum, SPS taught that America was fundamentally a white supremacist nation. Colorblindness and equality were insufficient, harmful even, and needed to be replaced by the expressly race-conscious version of equity. Equity meant that white individuals must accept that they owe a debt for their racial privilege and accept guilt. They had a special obligation to confess their privileges and then ally themselves with SPS's ideology. The way to do that was to become anti-racists. Becoming an anti-racist meant spreading this racially-charged ideology. Any reasonable listener would understand this is a job requirement. The most natural result would be that educators and staff would be furthering this destructive racial ideology in the classroom and to their coworkers.

SPS pledged to resume equity training, after pausing it when it was sued

SPS was prepared to implement further equity training for the 2021-2022 school year but paused it in response to the 2021 lawsuit brought by SLF.

It admitted under oath that only four days prior to commencing the training in 2022, SPS paused it “due the litigation.”¹¹³ But SPS vowed to “resume equity training at some point[.]”¹¹⁴ This alone is proof that SPS will resume its noxious traioning Given SPS's stated commitment to resuming, it is far from “absolutely clear that the allegedly wrongful behavior could not be reasonably be expected to recur.”¹¹⁵

SPS has continued its impermissible equity practices, now disguised as “access” and “opportunity”

The record shows that SPS disguised—not discontinued—its commitment to equity in 2022. In August, SPS leadership held a retreat where they began revising the strategic plan.¹¹⁶ The Board officially voted to change the strategic plan on December 13, 2022.¹¹⁷ The revised strategic plan

¹¹³ Deposition of Yvania Garcia-Pusateri at 329:9–19, 330:2–3, *supra* note 41; Deposition of Grenita Lathan, *Henderson I*, W.D. Mo. July 22, 2022), ECF No. 77–23, at 50:4–51:9 (“Deposition of Grenita Lathan”), available [here](#).

¹¹⁴ Deposition of Grenita Lathan at 53:10–11, *supra* note 113.

¹¹⁵ *Strutton v. Meade*, 668 F.3d 549, 556 (8th Cir. 2012) (quoting *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189 (2000)); *see also* *FBI v. Fikre*, 601 U.S. 234, 241 (2024) (holding government to same standard of mootness as private litigants).

¹¹⁶ Cory Matteson, *Finalized strategic plan charts path forward for all Springfield students, staff – but not without flurry of last-minute board debates*, Springfield Daily Citizen (Dec. 14, 2022), <https://perma.cc/Y2MW-BSKP>.

¹¹⁷ *Id.*

removed Focus Area 5 and its dedicated strategies to embedding equity throughout district operations.¹¹⁸

Equity is still part of the now-revised strategic plan, even though SPS removed Focus Area 5.¹¹⁹ Instead of five “focus areas” with the fifth focused on equity and diversity, the strategic plan has four “priorit[ies].”¹²⁰ “[E]quity” was “folded” into Priority 1, or “Success-Ready Students.”¹²¹ Objective 1.4 of Priority 1 is to “[r]eview programming to ensure equitable access to opportunity for all students.”¹²² Objective 1.4 goes on to describe “SMART Goal 1.4.1 at examining “processes that remove barriers and provide access in order to maximize educational impact.”¹²³ This is indistinguishable from SPS’s prior equity goals.

This language should look familiar to anyone acquainted with SPS. The “barriers” are things like white supremacy, white privilege, and America’s systemic racism. And “access” is something that different races need on unequal terms. Both “barriers” and “access” entail negative racial stereotyping. Per SPS, the Office of Access and Opportunity was relabeled to “reflect” this priority.¹²⁴ It supports the SMART Goal to “review programming and ensure equitable access to opportunity for all students.”¹²⁵ And, as demonstrated by the “How Can you Speak Up Against Racism in Your School” extension activity administered by SPS in the summer of 2025, SPS kept race top of mind in implementing this goal.

As part of this effort, SPS just “renamed” the Office of Equity & Diversity but retained its core commitment to equity.¹²⁶ Newly rebranded as the Department of Student Access and Opportunity,

¹¹⁸ See Official Minutes of the BOE Combined Study Session/Regular Meeting at 3, Springfield Board of Education (Dec. 13, 2022), <https://perma.cc/M93D-TJ5J>.

¹¹⁹ 2023-2028 Strategic Plan 2024 Update, *supra* note 20.

¹²⁰ See *id.* at 5–19; see also Matteson, *supra* note 116. (“Efforts surrounding equity and diversity were folded into one of four governing priorities in the new plan, titled “Success-Ready Students.”).

¹²¹ 2023 - 2028 Strategic Plan 2024 – Update at 9, *supra* note 20; see also *id.* at 6–8, 10; Matteson, *supra* note 115 (“Efforts surrounding equity and diversity were folded into one of four governing priorities in the new plan, titled ‘Success-Ready Students.’”).

¹²² 2023-2028 Strategic Plan 2024 – Update at 9, *supra* note 20 (emphasis added).

¹²³ *Id.*

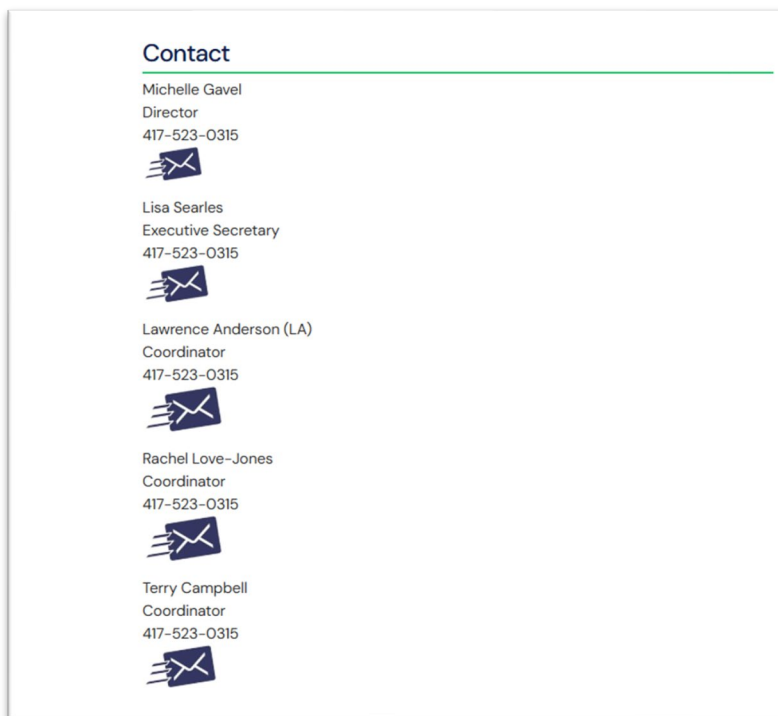
¹²⁴ Matteson, *supra* note 116.

¹²⁵ Press Release, Springfield Public Schools R-12, *SPS announces new leaders for 2023-2024 school year* (Apr. 13, 2023), (<https://perma.cc/H2CB-AFRS>) (quotation marks omitted).

¹²⁶ Matteson, *supra* note 116.

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the Department's personnel just got new titles in a new department.¹²⁷ Currently, SPS lists the following individuals as contacts:¹²⁸



Each of these individuals worked at the Office of Equity & Diversity prior to its rebranding and when it administered the Fall 2021 training:¹²⁹

¹²⁷ Springfield Public Schools R-12 – Departments/Student Access and Opportunity, <https://www.sps.org/access>.

¹²⁸ *Id.*

¹²⁹ Scott Nixon, Spreadsheet Tracking Employment History at Springfield Public Schools R-12 (2025), (<https://slfliberty.org/wp-content/uploads/2025/11/SPS-employment-spreadsheet.pdf>) (data obtained from Missouri Sunshine Law request).

		Hire Date	Term Date	Sep-21	Sep-22	Sep-23
49821	Yavania Garcia-Pusateri	9/9/2019	6/30/2023	104,155.00	109,694.00	
	Position			CHIEF EQUITY AND DIVERSITY OFFICER	CHIEF EQUITY AND DIVERSITY OFFICER	
	Department			Equity and Diversity	Equity and Diversity	
52927	Michelle Gavel	11/15/2021		73,059	76,738.00	94,841
	Position			Coordinator III Equity and Diversity Workforce	Coordinator III Equity and Diversity Workforce	Director II-Student Access & Opportunity
	Department			Equity and Diversity	Equity and Diversity	Student Access & Opportunity
34753	Lawrence Anderson	6/17/2013		82,155.00	86,292.00	90,634.00
	Position			Coordinator III Equity and Inclusion	Coordinator III Equity and Inclusion	Coordinator III Student Access & Opportunity
	Department			Equity and Diversity	Equity and Diversity	Student Access & Opportunity
34590	Rachel Love	11/8/2021		75,973.00	79,799.00	83,816.00
	Position			Coordinator III Equity and Diversity Culturally Responsive	Coordinator III Equity and Diversity Culturally Responsive	Coordinator III Student Access & Opportunity
	Department			Equity and Diversity	Equity and Diversity	Student Access & Opportunity
53328	Terry Campbell	5/2/2022		54,932.80	59,072.00	73,092.00
	Position			SPECIALIST-ACCOUNTING	SPECIALIST-ACCOUNTING	Coordinator III Student Access & Opportunity
	Department			Business Services	Business Services	Student Access & Opportunity
5682	Gwendolyn Marshall	3/7/1988	6/30/2025	60,119.00	63,146.00	66,324.00
	Position			Coordinator I - Equity and Inclusion	Coordinator I - Equity and Inclusion	Coordinator I - Student Access & Opportunity
	Department			Equity and Diversity	Equity and Diversity	Student Access & Opportunity
37080	Lisa Searles	11/18/2016		48,942.40	51,376.00	53,664.00
	Position			EXECUTIVE SECRETARY I, Equity	EXECUTIVE SECRETARY I, Equity	EXECUTIVE SECRETARY I, Equity
	Department			Equity and Diversity	Equity and Diversity	Student Access & Opportunity

These are the same people with similar roles, thereby demonstrating that SPS is interested in nothing more than cosmetic changes. Except for Dr. Garcia-Pusteri—who no longer works at SPS at all—every single individual working at the Department of Student Access and Opportunity was an employee at the Office of Equity & Diversity. It is no wonder that nothing has changed. Nothing was supposed to change other than the name.

But the problem was not the office’s *name* but its *mission*. SPS can still defy federal law through equity without putting the word in a department’s title. All the better to conceal it if a school district is intent on pushing equity under an administration hostile to it. As shown above, its strategic plan reaffirmed its ongoing commitment to equity. And pursuant to its commitment, SPS continues to require its educators take similar anti-racist equity training that instills equity throughout the district.

Just this summer (2025), it employed a video, “How Can you Speak Up Against Racism in Your School – Extension Activity (6-8).”¹³⁰ After dwelling on the problem of racism in schools, the training then lays out how to “create anti-racist school cultures.”¹³¹ It recommends schools create a “comprehensive anti-racist or *equity* policies.”¹³² Those must have “clear actionable goals,” like *racial quotas* for AP classes.¹³³ The video advocates for a race consciousness in hiring, or “recruit

¹³⁰ See Be Good People Curriculum © St. Croix River Education District, *How Can You Speak Up Against Racism in Your School?* at 3 (2025), <https://perma.cc/AGU7-R495> (slide of presentation with embedded video).

¹³¹ Above The Noise, *Racism in Schools: How Can You Fight It?*, YouTube at 9:55 (May 12, 2012), <https://perma.cc/FNC5-478L>.

¹³² *Id.* at 10:02 (emphasis added).

¹³³ *Id.* at 10:07.

more black and brown teachers who are dedicated to anti-racist and *equity* missions.”¹³⁴ It also advocates for teaching “culturally responsive content.”¹³⁵

The video highlighted an article called “7 Steps Toward Building an Equitable School Culture”¹³⁶ The recommended article contends that “microaggressions . . . position the dominant culture (Euro-American) as normal and the marginalized group as aberrant.”¹³⁷ Once again, colorblindness was trashed when a linked article used it as an example of a “racial microaggression.”¹³⁸ Other microaggressions included (1) the “[d]enial of individual racism,” which was further defined as a “statement made when Whites deny their racial biases” and (2) the “[m]yth of meritocracy.”¹³⁹ As seen in this definition, white individuals are singled out as the only race capable of prejudice. This was echoed in its definition of “[s]econd-class citizen” which occurs only “when a White person is given preferential treatment as a consumer over a person of color.”¹⁴⁰ SPS continues to rely on negative stereotypes of white people.

The *7 Steps Toward Building an Equitable School Culture* article dealt in other negative stereotypes about white privilege and pervasive white supremacy. It explains that “White people” must take the “time to examine and unlearn internalized dominance of White supremacy” to be antiracist.¹⁴¹

Different obligations attend non-white people; they need only take “steps to uproot our internalized oppression,”¹⁴² again reaffirming the view that America is fundamentally divided between white oppressors and non-white victims. Meeting spaces should be “ritualize[d]” with “[c]heck-in questions” and “sharing across differences” such as “[f]rom the skin I am in”¹⁴³ Schools should also prioritize “shared vision and language” terms, including explicitly teaching and discussing “*White supremacy*” and “*microaggressions*” “within the context of the local school community.”¹⁴⁴ Instead of “safe spaces,” that are “sometimes too safe,” and “a symptom of White

¹³⁴ *Id.* at 10:30 (emphasis added).

¹³⁵ *Id.* at 11:00.

¹³⁶ *Id.* at 12:24; See Jessica Wei Huang, Edutopia, *7 Steps Toward Building an Equitable School Culture* (Jan. 28, 2021), <https://perma.cc/4GTY-Z4U4>.

¹³⁷ Huang, *supra* note 136.

¹³⁸ See *id.* (linking to *Examples of Racial Microaggressions*, <https://perma.cc/C4AW-N7C2> (citing Wing et al., *Racial Microaggressions in Everyday Life: Implications for Clinical Practice*, American Psychologist at 62, 4, 271–86 (2007))).

¹³⁹ See *id.* (citing Wing, *supra* note 138).

¹⁴⁰ See *id.* (citing Wing, *supra* note 138).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

supremacy culture,” schools should create “brave spaces.”¹⁴⁵ This recommended article also stereotyped non-white individuals as “naturally bring[ing] a wider range of viewpoints and experiences to share with students and the community.”¹⁴⁶

The article invites “social justice educators” to ask questions that put race top of mind. These include:

- Have you thought about your students and faculty of color through the lens of these stereotypes?
- If you are an educator of color, are you ready to engage with your whole self, including the parts of you that institutions are asking you to leave at the door?¹⁴⁷

The article advocates for differential treatment in employment. To “reflect the majority of the young people they are working with” faculty and staff should “reflect the global majority of students.”¹⁴⁸ Schools must “hire and retain faculty and staff of color” because “issues of colonization, oppression, and social justice are being valued by government agencies.”¹⁴⁹

SPS is still hiring based on race and equity

SPS is still hiring based on race to further its commitment to equity. It posted a hiring on October 1, 2025, under its “Future Educator” program.¹⁵⁰ This program was referenced as a target in Objective 1.4 of SPS’s current strategic plan, described as reviewing its programming “to *ensure equitable* access to opportunity.”¹⁵¹ This is how SPS describes the job:¹⁵²

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ Springfield Public Schools R-12 – Departments/Student Access and Opportunity/Future Educators, <https://perma.cc/M248-835W>.

¹⁵¹ 2023-2028 Strategic Plan 2024 – Update at 9, *supra* note 20.

¹⁵² School Spring, Springfield Public Schools Bentley Administrative Center, 2026–2027 Future Educators Program Application (SPS R-12 & MSU Grow Your Own Program) Job ID 5392640 (Oct. 1, 2025) (available through: <https://spsmp.schoolspring.com>, Enter a job title or employer/Future Educators).

Job Description

Accepting Applications Now for 2026-2027 Future Educators Cohort!

The Future Educator (FE) Program in Springfield Public Schools will help the District actualize its diversity, equity, and inclusion priorities by recruiting, hiring, and retaining educators from underrepresented and under-resourced backgrounds.

The district defines these groups as the following, but not limited to:

- Students of Color, in terms of domestic and international racial and ethnic identities
- Students with Disabilities
- English Language Learners
- LGBTQ+ Students
- Students who receive FREE and REDUCED Lunch
- Students who receive McKinney-Vento Services
- Students from diverse religious backgrounds and belief systems

This description has two problems. SPS (1) reaffirms that equity remains its goal. The Future Educator Program helps SPS “actualize its diversity, equity, and inclusion priorities by recruiting, hiring, and retaining educators from underrepresented and under-resourced backgrounds.”¹⁵³ SPS also (2) utilizes unconstitutional means by implementing a racial preference. The program seeks educators who are “underrepresented,” to include “[s]tudents of Color, in terms of domestic and international racial and ethnic identities.”¹⁵⁴ This language makes clear that, as part of its ongoing commitment to its DEI “priorities,” SPS will factor race into its hiring decisions.¹⁵⁵ These compounded problems show that nothing has changed at SPS.

This brief rendition of the facts is based on the limited information that is publicly available. The mind reels thinking about what materials SPS does not make publicly available. Still, what is known is more than sufficient to deserve federal attention. The following legal analysis demonstrates how SPS’s actions, just on this thin record, violate federal civil rights laws and constitutional protections.

Equity training created a hostile environment in violation of Title VI

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs or activities that receive federal financial assistance.¹⁵⁶ Title VI has implementing regulations that provide a detailed discussion of discrimination prohibited under Title VI.¹⁵⁷ A Title VI violation may exist if: (1) a hostile environment based on race existed; (2) the

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

¹⁵⁶ 42 U.S.C. § 2000d, et seq.

¹⁵⁷ 34 C.F.R. § 100, et seq.

school had actual or constructive notice of the hostile environment; and (3) the school failed to take prompt and effective steps reasonably calculated to (i) end the harassment, (ii) eliminate any hostile environment and its effects, and (iii) prevent the harassment from recurring.¹⁵⁸

The following type of conduct can create a hostile environment: unwelcome race-based conduct that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive, that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment).¹⁵⁹ Harassing conduct need not always be targeted at a particular person in order to create a hostile environment.¹⁶⁰

OCR recently explained that programs like SPS's programs "frequently preference certain racial groups and teach students that certain racial groups bear unique moral burdens that others do not."¹⁶¹ The harm inflicted by this sort of program is that they "stigmatize students who belong to particular racial groups based on crude racial stereotypes," and thereby "deny students the ability to participate fully in the life of a school."¹⁶²

The 2021 training is a glaring example of exactly this sort of programming. It was designed to make the participants uncomfortable by stigmatizing white individuals and it did. More than one out of six participants who responded to a survey felt uncomfortable completing the mandatory equity training.¹⁶³ In one session, the equity trainers were so aggressively dismissive of the

¹⁵⁸ See Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance, 59 Fed. Reg. 11448, 11449 (Mar. 10, 1994).

¹⁵⁹ See *id.*; see also *Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 639–44 (1999) (discussing student-on-student harassment standards for damages actions under Title IX of the Education Amendments of 1972 (Title IX)); *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 280–90 (1998) (discussing teacher-on-student harassment standard for Title IX). In analyzing racial harassment claims, courts often consider cases under Title VII and Title IX. See *Cannon v. Univ. of Chi.*, 441 U.S. 677, 694–698 (1979) (stating that Title IX was modeled on Title VI).

¹⁶⁰ This standard is well established under Title VII case law, on which courts often rely for interpreting Title VI. See *Waltman v. Int'l Paper Co.*, 875 F.2d 468, 477 (5th Cir. 1989) (all sexual graffiti in office, not just that directed at plaintiff, was relevant to plaintiff's claim); *Hall v. Gus Const. Co.*, 842 F.2d 1010, 1015 (8th Cir. 1988) (evidence of sexual harassment directed at others is relevant to show hostile environment); *Walker v. Ford Motor Co.*, 684 F.2d 1355, 1358–59 (11th Cir. 1982) (hostile environment established where racial harassment made plaintiff "feel unwanted and uncomfortable in his surroundings," even though it was not directed at him).

¹⁶¹ U.S. Dep't of Educ. Office for Civil Rights, Dear Colleague Letter: Title VI of the Civil Rights Act in Light of *Students for Fair Admissions v. Harvard*, (Feb. 14, 2025) at 3, available at <https://perma.cc/9CNG-WKAF>.

¹⁶² *Id.*

¹⁶³ Springfield Public Schools R-12, Community Report Focus Area 5: Goal 1 Mid-Year Strategic Plan Update at 4, (May 18, 2021), <https://perma.cc/WLW8-8P6G>.

concerns of one trainee that it made her feel so uncomfortable that she wept in front of her coworkers.¹⁶⁴ Others said the topics were “very political” and that anything they said would “make for a hostile work environment.”¹⁶⁵

Make no mistake, the point was to make the trainees feel uncomfortable. When one local administrator asked Dr. Garcia-Pusateri how to avoid making the training so uncomfortable because he thought “unity” was the goal, not “divisiveness,” she made it clear that she did not care about how hostile it was to the participants.¹⁶⁶ She responded, while it was “unfortunate” the trainees found the training challenging, everyone must “implement equity into their site or departments, no matter how uncomfortable or difficult it is” because it was “not an invitation” but a “requirement,” and part of the district’s strategic plan.¹⁶⁷ In other words, discomfort was the necessary, even intended, result of the training.

SPS intended to teach the trainees to spread this ideology to the schoolchildren. According to SPS, its purpose was to equip the trainees to be “becoming antiracist educators,” meaning they were to use it in their work with the children.¹⁶⁸ It made this expectation absolutely clear. This was part of their “professional development” and “also for our work with students.”¹⁶⁹ The expectation was that the educators would naturally apply the lessons to the students.

OCR should investigate whether SPS has violated Title VI by discriminating in federally funded educational programs or impeding equal access to educational benefits such as resources and opportunities for all students, regardless of their race, color, or national origin.¹⁷⁰ The recent Second Circuit decision of *Chislett v. N.Y. City Department of Education* illustrates how easily

¹⁶⁴ E-mail from Erica Rosenbaum, Bissett Elementary Principal, Springfield Public Schools R-12, to Jason Anderson, Executive Director of Elementary Learning, Springfield Public Schools R-12 (Sept. 17, 2020, 16:06 CT) (available at Ex. 17 at 1, *supra* note 66).

¹⁶⁵ *Id.*

¹⁶⁶ E-mail from Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12, to Jason Anderson, Executive Director of Elementary Learning, Springfield Public Schools R-12 (Sept. 21, 2020, 16:38:01 CT) (available at Ex. 17 at 1, *supra* note 66); E-mail from Jason Anderson, Executive Director of Elementary Learning, Springfield Public Schools R-12, to Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12 (Sept. 18, 2020 8:16 CT) (available at Ex. 17 at 1, *supra* note 66).

¹⁶⁷ E-mail from Yvania Garcia-Pusateri, Chief Equity and Diversity Officer, Springfield Public Schools R-12, to Jason Anderson, Executive Director of Elementary Learning, Springfield Public Schools R-12 (Sept. 21, 2020, 16:38:01 CT) (available at Ex. 17 at 1, *supra* note 66) (emphasis in original).

¹⁶⁸ *Id.*

¹⁶⁹ Ex. 9 at 10, *supra* note 41.

¹⁷⁰ See 42 U.S.C. § 2000d, et seq.

similar racially charged “DEI” training can create a hostile environment.¹⁷¹ The New York Department of Education required training that would have seemed familiar to SPS employees. It involved negative stereotypes of “white culture,” assumed that all white people benefitted from pervasive white supremacy and white privilege, and stereotyped certain qualities as belonging exclusively to white people.¹⁷² The court recognized that the cumulative effect of the training would cause any reasonable person to perceive the environment as hostile.¹⁷³ In words that could be said about SPS, the court recognized that when trainings “discuss any race ‘with a constant drumbeat of essentialist, deterministic, and negative language [about a particular race], they risk liability under federal law.’”¹⁷⁴ Adequate grounds exist to open an investigation into SPS under Title VI.

This investigation should include whether SPS created a hostile environment for the teachers, as well as the students. Title VI is concerned with racial discrimination that denies the benefits of federally funded programs to *persons*, not just students.¹⁷⁵ Title VI thus reaches hostile educational environments for educators when (1) federal funds reach the school district in question to provide continuing education programs to educators, (2) a racially hostile environment deprives educators of the benefits of those federally-funded programs, and (3) the school district has knowledge of the hostile environment but is indifferent to it.¹⁷⁶ Although Title VI cannot reach the sort of hostile work environment claims that are the bread and butter of Title VII,¹⁷⁷ it does apply in circumstances like these.

¹⁷¹ No. 24-972-cv, --- F. 4th ---, 2025 U.S. App. LEXIS 24831 (2d Cir. Sept. 25, 2025). Although Chislett was a Title VII workplace hostile environment claim, courts often rely on Title VII for interpreting Title VI. *See supra* notes 159 & 160.

¹⁷² *Chislett*, 2025 U.S. App. LEXIS 24831, at *6–7.

¹⁷³ *Id.* at *34.

¹⁷⁴ *Id.* at *33 (quoting *De Piero v. Pa. State Univ.*, 711 F. Supp. 3d 410, 424 (E.D. Pa. 2024)).

¹⁷⁵ “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d; *see also* 42 U.S.C. § 2000d-4a (defining “program or activity” in broad language); *Gebser*, 524 U.S. at 286 (explaining Title VI was intended to eliminate all federal funding to racially discriminatory programs).

¹⁷⁶ *See Davis*, 526 U.S. at 642; *Jaquet v. Green Bay Area Catholic Educ., Inc.*, 996 F.3d 802, 808 (7th Cir. 2021); *Ervins v. Sun Prairie Area Sch. Dist.*, 609 F. Supp. 3d 709, 722 (W.D. Wis. 2022); *see also Fennell v. Marion Indep. Sch. Dist.*, 804 F.3d 398, 408 (5th Cir. 2015); *Doe v. Galster*, 768 F.3d 611, 617 (7th Cir. 2014); *Whitfield v. Notre Dame Middle Sch.*, 412 F. App’x 517, 521 (3d Cir. 2011) (unpublished); *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1033 (9th Cir. 1998).

¹⁷⁷ 42 U.S.C. § 2000d-3 (barring agency action under Title VI against employment practices except where a primary objective of the federal financial assistance is to provide employment).

The first two elements of a hostile environment for educators are met here. SPS received over \$40 million in federal funding directed to teachers in its 2023-2024 budget.¹⁷⁸ In the same period, SPS expended more than \$10 million dollars on teachers in two categories: “Improvement of Instruction” and “Professional Development.”¹⁷⁹ And no doubt exists that the educators who were forced to undergo SPS’s equity training were deprived of the full benefits of the programs when it assigned racial stigma to some individuals and not others.

The final element is met as well. SPS was fully aware of the hostile environment. After all, it was sued over it. Rather than act horrified and rid itself of its devotion to equity, it chose to defend this training to the hilt. In its pleading, it actually claimed the training “was vindicating the rights of students”¹⁸⁰ SPS went so far as to level personal attacks in its pleadings, describing the plaintiffs as “egocentric” and asserting that their claims “reek[ed] of frivolity.”¹⁸¹ It candidly acknowledged that the training expected “nothing more than Plaintiff’s *commitment* to anti-racism,” which meant—again, in SPS’s own words—“it cannot be colorblind.”¹⁸² Far from being unaware of the hostile environment it was fostering, SPS was so enthusiastically in favor of it that it was willing to savage the few individuals brave enough to stand up for equality and colorblindness, the actual requirements of federal law.

OCR should have no more patience for SPS’s *defiance* of the Constitution than SPS had for its own employees’ *devotion* to the Constitution. OCR has promised to “no longer tolerate the overt and covert racial discrimination that has become widespread in this Nation’s educational institutions.”¹⁸³ SPS presents the ripest of opportunities for OCR to make good on that promise by ending these harmful practices in SPS.

¹⁷⁸ 2025-2026 Budget, The School District of Springfield, R-12 at 13, *supra* note 11.

¹⁷⁹ *See id.* at 15 (reflecting \$9,847,135 spent on “Improvement of Instruction” for teachers and \$635,653 on “Professional Development” for teachers).

¹⁸⁰ Brief of Appellees School District of Springfield R-12, et al., *Henderson v. Sch. Dist. of Springfield R-12*, Nos. 23-1374, 23-1880 (8th Cir. July 19, 2023) (“*Henderson II*”), at 47, available [here](#).

¹⁸¹ *Id.*

¹⁸² Suggestions in Opposition to Plaintiffs’ Motion for Summary Judgment at 78, 80, *supra* note 14.

¹⁸³ Dear Colleague Letter: Title VI of the Civil Rights Act in Light of *Students for Fair Admissions v. Harvard* at 3, *supra* note 161.

By engaging in relentless racial stereotyping that stigmatized individuals based on their race, SPS's equity training violated, and continues to violate, the constitutional guarantee of equal protection

Title VI is not the only law implicated by SPS's practices. SPS's racial stereotyping also violates the Fourteenth Amendment right of both students and educators to equal protection under the law, as well as the nation's civil rights laws.

The Equal Protection Clause provides the baseline guaranty of equality between races and sex. "Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality."¹⁸⁴ The government must always obey the "twin commands" of the Equal Protection Clause; those are "that race may never be used as a 'negative' and that it may not operate as a stereotype."¹⁸⁵ The Supreme Court took pains to emphasize that the "twin commands" are categorical prohibitions not subject to strict scrutiny.¹⁸⁶ The Court expressed that these are *absolute* commands—they can "never" be violated.¹⁸⁷

Racial stereotyping inflicts an injury because it "threaten[s] to stigmatize individuals by reason of their membership in a racial group and to incite racial hostility."¹⁸⁸ The Equal Protection Clause is not limited to instances where the government erects a barrier that makes it more difficult for individuals to seek a benefit than members of another racial group. That is merely "one form of injury under the Equal Protection Clause."¹⁸⁹ Racial stigmatization is also unconstitutional. The Equal Protection Clause prohibits "stigmatizing members of the disfavored group as 'innately inferior' and therefore as less worthy participants in the political community."¹⁹⁰ Stigmatization is particularly injurious because it "generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."¹⁹¹ This injury is just as real to the educators and students at SPS as being denied an educational benefit on equal terms.

¹⁸⁴ *SFFA*, 600 U.S. at 208 (quoting *Rice v. Cayetano*, 528 U.S. 495, 517 (2000)).

¹⁸⁵ *Id.* at 218.

¹⁸⁶ The "twin commands" were in addition to strict scrutiny. *See id.* (the challenged systems "also fail to comply with the twin commands"); *id.* at 219 (the admissions policies were "infirm for a second reason as well" as the failure to satisfy strict scrutiny).

¹⁸⁷ *Id.* at 218.

¹⁸⁸ *Shaw v. Reno*, 509 U.S. 630, 643 (1993) (citing *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493 (1989)).

¹⁸⁹ *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 719 (2007).

¹⁹⁰ *Heckler v. Mathews*, 465 U.S. 728, 739 (1984) (quoting *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 725 (1982)).

¹⁹¹ *Brown*, 347 U.S. at 494.

School districts may discriminate in ways that OCR recently described as “less direct, but equally insidious, ways.”¹⁹² OCR recognized that discrimination in school programming “has become widespread,” including programs that “teach students that certain racial groups bear unique moral burdens that others do not.”¹⁹³ The harm inflicted by this sort of program is that they “stigmatize students who belong to particular racial groups based on crude racial stereotypes.”¹⁹⁴

Little question exists that SPS—which told a court it will not be colorblind¹⁹⁵—has engaged in this exact sort of stigmatizing conduct. White individuals are depicted as many things by SPS—oppressor, privileged, colonizer—they all rest on stereotypes. None of them are good. The throughline is that white men are all privileged based on their race and sex because of their ancestors and nonwhite people are their oppressed victims to whom a debt is owed. SPS might think it is helping, but “it demeans the dignity and worth of a person to be judged by their ancestry instead of by his or her own merit and essential qualities.”¹⁹⁶ SPS “furthers ‘stereotypes that treat individuals as the product of their race. . . .’” and must end.¹⁹⁷

SPS’s depiction of the races would instill “sense of inferiority [that] affects the motivation of a child to learn” on a white child.¹⁹⁸ The stereotyping so readily embraced by SPS can only “cause[] continued hurt and injury,”¹⁹⁹ that is contrary to the “core purpose” of the Equal Protection Clause.”²⁰⁰ The federal government has the authority to directly enforce the Equal Protection Clause of the Fourteenth Amendment against state actors.²⁰¹

¹⁹² Dear Colleague Letter: Title VI of the Civil Rights Act in Light of *Students for Fair Admissions v. Harvard* at 3, *supra* note 161.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ Suggestions in Opposition to Plaintiffs’ Motion for Summary Judgment at 73, *supra* note 14.

¹⁹⁶ *SFFA*, 600 U.S. at 220 (quoting *Rice*, 528 U.S. at 517).

¹⁹⁷ *Id.* at 221 (quoting *Miller v. Johnson*, 515 U.S. 900, 912 (1995)).

¹⁹⁸ *Brown*, 347 U.S. at 494 (quotation omitted).

¹⁹⁹ *SFFA*, 600 U.S. at 221 (quoting *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614 631 (1991)).

²⁰⁰ *Id.* (quoting *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984)).

²⁰¹ See *Alden v. Maine*, 527 U.S. 706, 755 (1999) (“In ratifying the Constitution, the States consented to suits brought by other states or by the Federal Government.”); *id.* at 755-56 (recognizing the United States had authority to bring a suit as a plaintiff in equity as “the Constitution contemplates suits among the members of the federal system,” including those “commenced and prosecuted against a State in the name of the United States”); *United States v. Mississippi*, 380 U.S. 128, 141 (1965) (State’s interpretation that it cannot be sued by the United States “is not supported by precedent, is not required by any language of the Constitution, and would without justification in reason diminish the power of courts to protect the people of this country against deprivation and destruction by States of their federally guaranteed rights”); *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 339 (1906) (“The principles of equity exist independently of and anterior to all Congressional legislation”); *United States v. State*, 566 F. Supp.

The Department of Justice is the right agency to address SPS's chronic indifference to civil rights and constitutional law. Above all else, the Department of Justice was created to usher into being to enforce the constitutional guarantee of equality.²⁰²

CONCLUSION

Frederick Douglass envisioned the day when “the color line will [one day] cease to have any civil, political, or moral significance.”²⁰³ And Dr. King invoked America’s “sacred obligation” to honor the promise to judge Americans “not by the color of their skin but by the content of their character.”²⁰⁴ But decades later, in 2025, it is evident SPS will continue to judge its staff and students by their skin and to regard colorblindness as the enemy of its goals.

It would be hard to come up with a more ready example of a school district acting in deliberate disregard of Title VI, its accompanying regulations, to say nothing of the Constitution. But equality is not a principle SPS can hold in such light regard.

SPS may consider its goals noble, but no one is morally superior to the law. This is not the first time school districts have rebelled against the constitutional guarantee of equality or federal enforcement of civil rights.²⁰⁵ SPS is free to disagree with Frederick Douglass and Dr. King about colorblindness, but it is not free to accept federal funding and discriminate based on race.

Were it not for the last Administration’s unswerving devotion to all things “equity,” SPS would surely have attracted swift federal intervention long ago. As it currently stands, teachers, parents, and students in SPS have every reason to doubt whether the civil rights laws continue to exist in the Western District. It is time for that to end.

3d 605, 654 (W.D. Tex. 2021) (“[T]he power to sue to vindicate the constitutional rights of citizens against states that would infringe them strikes at the core of the mandate of the Department of Justice, and the essence of the Fourteenth Amendment.”); accord *La Unión Del. Pueblo Entero v. Abbott*, 604 F. Supp. 3d 512 (W.D. Tex. 2022).

²⁰² See Bryan Greene, Created 150 Years Ago, the Justice Department’s First Mission Was to Protect Black Rights, *Smithsonian Mag.*, July 1, 2020, <https://perma.cc/3X5X-39HY>.

²⁰³ Frederick Douglass, Address at Nat’l Convention of Colored Men (Sept. 24, 1883), <https://perma.cc/C7TA-MRB4>.

²⁰⁴ Martin Luther King Jr.’s ‘I Have a Dream’ speech in its entirety, NPR (Jan. 16, 2023), <https://perma.cc/365H-K9VY>.

²⁰⁵ See *Plessy*, 163 U.S. at 551 (“We consider the underlying fallacy of the plaintiff’s argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority.”), overruled by *Brown*, 347 U.S. at 495 (“Separate educational facilities are inherently unequal.”).

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OCR and CRD should act with all due urgency to remind them that they do. Colorblindness is the law of the land and always will be so long as there is a United States of America worthy of the name.

Yours in Freedom,

/s/ Kimberly Hermann

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