

https://captimes.com/news/local/education/john-doe-sues-mmsd-over-open-records-refusals/article_3db133c2-a625-5b55-9e56-d4c2da26aa56.html

John Doe sues MMSD over open records refusals

By Scott Girard

Nov 15, 2019



An anonymous Madison School District resident is suing the district over its refusal to provide records in response to 26 requests made over a three-and-a-half month period earlier this year.

JOHN HART, STATE JOURNAL ARCHIVES

An anonymous Madison School District resident is suing the district over its refusal to provide records in response to 26 requests made over a three-and-a-half month period earlier this year.

The John Doe is being represented by attorney Tom Kamenick, the president and founder of the Wisconsin Transparency Project. The lawsuit filed Nov. 14 in Dane County Circuit Court asks the court to mandate the release of the records and award Doe at least \$100 for each of the 48 counts it alleges against the district in addition to attorney fees.

According to the lawsuit, between July 10 and Oct. 31 Doe filed requests seeking documents related to administration's weekly updates with board members, curriculum plans, school improvement plans and the annual seclusion and restraint report, among other topics.

MMSD spokeswoman Liz Merfeld wrote in an email the district's legal department had not received the lawsuit as of 11:15 a.m. Friday.

The requests were filed through a site called MuckRock and did not reveal the identity of the requester, which MMSD cited as a reason not to release the records in some cases, according to the lawsuit.

"Despite your disclaimer that 'this request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests,' your request has not identified the actual

requester,” MMSD replied to some requests, according to the lawsuit. “While the Wisconsin Open Records law does not require disclosure of the requester's identity, the MMSD contends that the requester's identity is relevant in its determination of whether there is a safety concern that would prohibit disclosure of the requested documents.”

The lawsuit claims “MMSD has not identified any security reasons, federal law, or regulations that require Doe to identify themselves, and no such reasons, laws, or regulations exist.”

Doe also requested copies of “drafts and/or revisions” to 2019-20 School Improvement Plans for each school. MMSD’s response stated that “all drafts and/or revisions of SIPs are not subject to the Wisconsin Open Records Law,” citing a statute that exempts “drafts, notes, preliminary computations, and like materials prepared for the originator’s personal use or prepared by the originator in the name of a person for whom the originator is working.”

The lawsuit claims “MMSD failed to engage in the correct analysis for the drafts exception, resulting in its misapplication.”

“Merely calling a document a ‘draft’ is not sufficient to qualify it for statutory exemption,” the lawsuit states.

The MuckRock website shows 41 records requests sent to MMSD, one of which has been completed. Of the rest, 21 are “Fix Required” status related to MMSD’s response about anonymity or drafts and 19 are “Awaiting Acknowledgement” or

“Awaiting Response.” The requests date as far back as April 9.

Share your opinion on this topic by sending a letter to the editor to tctvoice@madison.com. Include your full name, hometown and phone number. Your name and town will be published. The phone number is for verification purposes only. Please keep your letter to 250 words or less.

MORE INFORMATION



Madison School District's average elementary class sizes up from 2018

Grading inconsistencies 'not new' with West 'grading floor,' Madison School District officials say

MORE INFORMATION



Madison School District's average elementary class sizes up from 2018

Grading inconsistencies 'not new' with West 'grading floor,' Madison School District officials say