ORIGINAL

IN THE SUPREME COURT OF OHIO

Case No. _____

Original Action in Mandamus

14-0749

School Choice Ohio, Inc.
88 East Broad Street, Suite 640
Columbus, Ohio 43215

Relator,

v.

Cincinnati Public School District
2651 Burnet Avenue
Cincinnati, Ohio 45219

- and -

Springfield City School District
1500 West Jefferson Street
Springfield, Ohio 45506

Respondents.

COMPLAINT FOR ALTERNATIVE AND PEREMPTORY WRITS OF MANDAMUS

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CLERK OF COURT
SUPREME COURT OF OHIO

For its Complaint for Alternative and Peremptory Writs of Mandamus, relator School Choice Ohio, Inc. states and alleges as follows:

Introduction

1. Starting in 1995, when the General Assembly implemented Ohio's first school choice program to provide scholarships for students in the Cleveland School District, the General Assembly has enacted multiple school choice scholarship programs to help Ohio's children receive the education they need.

2. School Choice Ohio, Inc. ("School Choice Ohio") has been reaching out to Ohio families since 2005 to inform them about the education options that are available for their children.

3. Some public school districts view Ohio's school choice scholarship programs as a threat, and have implemented programs specifically intended to keep Ohio families from taking advantage of the options available to them under Ohio law.

4. Cincinnati Public School District ("Cincinnati Public Schools") and Springfield City School District ("Springfield City Schools") have deliberately and systematically withheld public records that School Choice Ohio needs to contact the families of students regarding their education options by manipulating their policies and procedures to improperly invoke the Family Education Rights and Privacy Act, 20 U.S.C. § 1232(g), ("FERPA") as a pretext for dodging their obligations under Ohio's Public Record Act, Revised Code 149.43.

5. This original action thus concerns whether Ohio school districts may deny access to public record documents and information with the deliberate intent of making it more difficult—if not impossible—for a non-profit public interest group to contact the parents of public school students who are eligible for the school choice scholarship programs enacted by the General Assembly and administered by the Ohio Department of Education for the benefit of Ohio's children.

Jurisdiction

6. Jurisdiction and venue are proper in this Court under Article IV, Section 2(B)(1) of the Ohio Constitution, Revised Code 149.43 and Revised Code 2731.02.

7. Revised Code 149.43 and Revised Code 3319.321 impose a clear duty on Cincinnati Public Schools and Springfield City Schools to provide, and School Choice Ohio has a clear legal right to receive, the "directory information" that School Choice Ohio has requested. Cincinnati Public Schools and Springfield City Schools further have a clear legal duty to adopt and implement policies and practices requiring and facilitating the disclosure of the "directory information" School Choice Ohio has requested to fulfill its important mission, and School Choice Ohio has a clear legal right to the benefit of such policies and practices.

8. Despite their clear legal duties and School Choice Ohio's clear legal rights, Cincinnati Public Schools and Springfield City Schools have refused to provide the "directory information" that School Choice Ohio has requested. In so doing, Cincinnati

Public Schools and Springfield City Schools have prevented families of students in their districts from receiving important information regarding the education options available in Ohio.

9. School Choice Ohio accordingly seeks a peremptory writ of mandamus against Cincinnati Public Schools and Springfield City Schools ordering them to produce the requested "directory information" and to adopt policies requiring and facilitating the disclosure of such "directory information." In lieu of a peremptory writ of mandamus, School Choice Ohio seeks an alternative writ of mandamus that establishes a schedule for submitting evidence and briefs on the merits of its claims.

10. Exercise of this Court's jurisdiction is necessary because the acts and omissions by Cincinnati Public Schools and Springfield City Schools have left School Choice Ohio no plain and adequate alternative remedy in the ordinary course of the law with respect to the "directory information" and other public records it has requested.

The Parties

11. Relator School Choice Ohio is a non-profit organization under 501(c)(3) of the Internal Revenue Code located in Columbus, Ohio.

12. Respondent Cincinnati Public Schools is Ohio's third-largest school district and the largest school district in the Greater Cincinnati, Ohio, area, with an enrollment of approximately 33,000 students.

13. Respondent Springfield City Schools is the school district for Springfield, Ohio, with an enrollment of approximately 8,000 students.

School Choice in Ohio

14. Ohio's almost twenty-year experience with school choice in many respects grew out of the landmark case regarding the Cleveland School District, *Reed v. Rhodes*, Case No. 1:73 CV 1300, in the U.S. District Court for the Northern District of Ohio.

15. Finding that the Cleveland School District was in a "crisis of magnitude," Judge Krupansky in 1995 took the extraordinary—and necessary—measure of placing the entire Cleveland School District under state control. *See Reed v. Rhodes*, No. 1:73 CV 1300 (ND Ohio, Mar. 3, 1995).

16. Shortly thereafter, the General Assembly enacted what is now known as the Cleveland Scholarship and Tutoring Program to provide scholarships to parents of students in the Cleveland School District for their children to attend private schools within the district or public schools bordering the district. The maximum scholarship value is now $4,250 for grades K-8 and $5,700 for high school. More than 7,000 students are enrolled in the schools of their choice under scholarships under the Cleveland Scholarship and Tutoring Program for the 2013-2014 school year.

17. Acknowledging the Cleveland Scholarship and Tutoring Program as being an integral "part of a general and multifaceted undertaking by the State of Ohio to provide educational opportunities to the children of a failed school district," the U.S.

Supreme Court in 2002 affirmed its constitutionality in *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S.Ct. 2460 (2002).

18. Following the Supreme Court's ruling in *Zelman*, and building on the success of the Cleveland Scholarship and Tutoring Program, the General Assembly expanded Ohio's school choice options in 2003 by enacting the Autism Scholarship Program to provide scholarships of up to $20,000 per year to parents of Ohio students on the autism spectrum. Almost 2,750 students are enrolled under scholarships under the Autism Scholarship Program for the 2013-2014 school year.

19. In 2005, the General Assembly further expanded school choice in Ohio by enacting the Educational Choice Scholarship Program (commonly referred to as "EdChoice") to provide scholarships for Ohio students who are attending, entering or assigned to attend a low-rated public school, as identified by the Ohio Department of Education. The maximum EdChoice scholarship value is now $4,250 for grades K-8 and $5,000 for high school. The General Assembly initially authorized a maximum of 14,000 scholarships, which it increased to a maximum of 60,000 scholarships in 2011. Less than one-third of the 60,000 students authorized by the General Assembly are enrolled in the schools of their choice under EdChoice scholarships for the 2013-2014 school year.

20. In 2011, the General Assembly enacted the Jon Peterson Special Needs Scholarship Program to provide scholarships of up to $20,000 per year to parents of Ohio students with special needs to pay for private or public school tuition and for

additional services at private therapists and other service providers. More than 2,300 students are enrolled in the schools of their choice under scholarships under the Jon Peterson Special Needs Scholarship Program for the 2013-2014 school year.

21. Most recently, the General Assembly in 2013 expanded the EdChoice Scholarship Program to provide scholarships of up to $4,250 to eligible students whose family income is at or below 200 percent of the federal poverty guidelines. Nearly 1,000 students received scholarships and are enrolled in the schools of their choice under the Income-Based Scholarship Program for the 2013-2014 school year.

Cincinnati Public Schools and Springfield City Schools Thwart School Choice Ohio's Efforts to Educate Parents Regarding School Choice

22. School Choice Ohio is the only statewide organization that educates parents on their education options and advocates for the expansion of quality options for every Ohio child. (Affidavit of Sarah Pechan ("Pechan Aff."), attached hereto, ¶ 2.)

23. Since 2005, School Choice Ohio has been reaching out to Ohio families by mail, phone, email, social media and community events to inform them about the education options that are available for their children, including opportunities under the scholarship programs outlined above. (Pechan Aff. ¶ 3.)

24. To reach out to eligible families, School Choice Ohio needs to know which students are eligible for one or more of the school choice options available under Ohio law and how to contact those students' families. (Pechan Aff. ¶ 3.)

25. Ordinarily, School Choice Ohio obtains that information by making public records requests to school districts in Ohio. (Pechan Aff. ¶ 4.) The information School Choice Ohio requests from school districts constitutes a "public record" under Ohio's Public Records Act, Revised Code 143.43.

26. Because the information School Choice Ohio requests from school districts qualifies as "directory information" under FERPA, school districts may disclose that information to School Choice Ohio in compliance with FERPA's notice requirements.

27. Most districts readily provide information requested by School Choice Ohio. (Pechan Aff. ¶ 4.) Two school districts, however, have not been forthcoming with the information School Choice Ohio needs, leaving it no option but to bring this mandamus action against Cincinnati Public Schools and Springfield City Schools. (*Id.*)

Cincinnati Public Schools

28. On October 22, 2013, School Choice Ohio sent a written public records request to Cincinnati Public Schools seeking the following "directory information" for students enrolled in the district:

a. Student and parent's/guardian's name

b. Parent's/Guardian's complete address, including email address

c. Parent's/Guardian's telephone contact information

d. Student's grade level for the 2013-14 school year

e. Student's school building for the 2013-14 school year

(Pechan Aff. ¶ 5 and Exh. A.)

29. School Choice Ohio requested this public record information from Cincinnati Public Schools so it could communicate with the families of students in the district regarding their education options under Ohio law. (Pechan Aff. ¶ 5.)

30. Cincinnati Public Schools responded on November 15, 2013, by refusing to provide the requested "directory information," claiming that FERPA prohibits disclosure of that information because of the district's own decision to limit its own definition of "directory information" to just student names, participation in officially-recognized activities and sports, and awards received. (Pechan Aff. ¶ 6 and Exh. B.)

31. Contrary to Cincinnati Public Schools' position in its November 15, 2013, letter, the district does, in fact, disclose "directory information" of precisely the type requested by School Choice Ohio to third parties. (Pechan Aff. ¶¶ 7-8.)

32. For example, Cincinnati Public Schools' Walnut Hills High School provides "directory information" to the Walnut Hills High School Association so it can publish and sell a student directory that includes "directory information." (Pechan Aff. ¶ 7 and Exh. C.) As another example, Cincinnati Public Schools' Kilgour Elementary School, through the Kilgour PTA, publishes a student directory containing "directory information." (Pechan Aff. ¶ 8 and Exh. D.)

33. On February 24, 2014, School Choice Ohio sent a further written public records request to Cincinnati Public Schools by certified U.S. mail, renewing School

Choice Ohio's October 16, 2013, public records request and further requesting information regarding, among other things, the district's policies and decision making process regarding "directory information," any exceptions or failures by the district to follow those policies, and documents regarding disclosures of "directory information" by the district to representatives of the armed forces, charitable institutions, employers and institutions of higher education for the 2012-13 and 2013-14 school years. (Pechan Aff. ¶ 9 and Exh. E.)

34. School Choice Ohio has not received any response from Cincinnati Public Schools to its February 24, 2014, request. (Pechan Aff. ¶ 9.) Cincinnati Public Schools thus has failed to respond affirmatively or negatively to School Choice Ohio's February 24, 2014, request within the time allowed under Revised Code 149.43(B).

Springfield City Schools

35. On October 22, 2013, School Choice Ohio sent a written public records request to Springfield City Schools seeking the following "directory information" for students enrolled in the district so it could communicate with families of students regarding their full range of education options:

a. Student and parent's/guardian's name

b. Parent's/Guardian's complete address, including email address

c. Parent's/Guardian's telephone contact information

d. Student's grade level for the 2013-14 school year

e. Student's school building for the 2013-14 school year

(Pechan Aff. ¶ 10 and Exh. F.)

36. School Choice Ohio requested this public record information from Springfield City Schools so it could communicate with the families of students in the district regarding their education options under Ohio law. (Pechan Aff. ¶ 10.)

37. Springfield City Schools responded on October 22, 2013, by providing a copy of its policy related to Student Records and Directory Information but not the requested "directory information." Its response did not provide an explanation of why it did not provide the requested information or indicate whether an explanation or the requested information would be forthcoming. (Pechan Aff. ¶ 10 and Exh. F.)

38. The policy Springfield City Schools provided was different from the policy posted on its website at the time School Choice Ohio made its initial public records request. (Pechan Aff. ¶ 10 and Exh. F.)

39. On January 9, 2014, School Choice Ohio again requested in writing that Springfield City Schools provide the "directory information" it had requested. (Pechan Aff. ¶ 10 and Exh. F.)

40. Springfield City Schools responded on January 13, 2014, by refusing to provide the "directory information" that School Choice Ohio requested, claiming that disclosure of that information is prohibited under FERPA because of the district's own

decision to change its policy to not designate any categories of information as "directory information." (Pechan Aff. ¶ 11 and Exh. G.)

41. On February 24, 2014, School Choice Ohio sent by certified U.S. mail another written public records request to Springfield City Schools that renewed its October 22, 2013, public records request and further requested public records regarding, among other things, the district's policies and decision making process regarding "directory information," exceptions or failures by the district to follow those policies, and documents regarding disclosures of "directory information" to representatives of the armed forces, charitable institutions, employers and institutions of higher education for the 2012-13 and 2013-14 school years. (Pechan Aff. ¶ 12 and Exh. H.)

42. In an April 4, 2014, response, Springfield City Schools again denied School Choice Ohio's requests based on its new policy to not designate any categories of student information as "directory information." (Pechan Aff. ¶ 13 and Exh. I.)

43. Also on April 4, 2014, Springfield City Schools produced copies of correspondence and related documents showing that the district adopted its new policy as a pretextual basis for it to deny School Choice Ohio the public record information it needs to educate the families of district students as part of a concerted effort to stem the tide of district students taking advantage of EdChoice scholarships and other non-district educational opportunities provided under Ohio law. (Pechan Aff. ¶ 13.)

44. In a January 5, 2013, email, Springfield City Schools employee Kim Fish proposed "reducing what we consider directory information" because the General Assembly had recently expanded "the potential for more for profit schools to come in to Ohio as online schools and also expand[ed] vouchers." Ms. Fish further stated that the district had only received one request for that information in the past year, which upon information and belief was a previous request by School Choice Ohio during the 2012-2013 school year. (Pechan Aff. ¶ 13 and Exh. J.)

45. In an April 25, 2013, email, Ms. Fish stated that Springfield City Schools was considering changes to its directory information policy "for defensive reasons." (Pechan Aff. ¶ 13 and Exh. K.)

46. Under Springfield City Schools' new policy, which it adopted on June 12, 2013, no categories of information are designated as "directory information." (Pechan Aff. ¶ 13 and Exh. L.)

47. Springfield City Schools also adopted a new "Acceptable Use Policy & Directory Information Consent" form and policies for the 2013-2014 school year by which it obtains consent for the district to disclose all applicable categories of "directory information" permitted under FERPA, but only "for purposes approved by the Superintendent or his designee." Springfield City Schools' new policy thus purports to vest in its Superintendent the ability to approve or reject requests for such information in his sole and unfettered discretion. (Pechan Aff. ¶ 13 and Exh. M.)

48. Pursuant to Springfield City Schools' "Acceptable Use Policy & Directory Information Consent" form and policies, the district's superintendent, David Estrop, has approved third party requests for student names, addresses and other information. For example, Mr. Estrop approved an August 7, 2013, request by Clark State Community College on the basis that it "partners with the Springfield City School District." (Pechan Aff. ¶ 13 and Exh. N.) Mr. Estrop similarly approved an August 27, 2013, request by Springfield Christian Youth Ministries on the basis that the "organization partners with" the district. (Pechan Aff. ¶ 13 and Exh. O.)

49. School Choice Ohio's October 22, 2013, public records request was forwarded to Mr. Estrop, who denied that request under Springfield City Schools' newly-adopted "Acceptable Use Policy and Directory Information Consent" form and policies, stating as follows:

> Correct, we do not provide [School Choice Ohio] any information. I would suggest that we send them our newly developed and approved board policy on this subject. Then if they have any questions, send them to our attorneys.

(Pechan Aff. ¶ 13 and Exh. P.) Shortly thereafter, Dale Miller, Springfield City Schools' Treasurer and Chief Financial Officer, sent the district's initial response to School Choice Ohio. He did not, however, reveal that Mr. Estrop had denied School Choice Ohio's request as an exercise of his discretion under the district's "Acceptable Use Policy & Directory Information Consent" form and policies. (*Id.* at ¶ 10 and Exh. F.)

50. Subsequent to Mr. Estrop's denial of School Choice Ohio's public records request, he approved similar public records requests for "directory information" by third parties, such as Global Impact STEM Academy. (Pechan Aff. ¶ 13 and Exh. Q.)

Count 1: Ohio Public Records Act – Cincinnati Public Schools

51. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

52. Cincinnati Public Schools has a clear legal duty to provide the records that School Choice Ohio has requested. The records that School Choice Ohio requested from Cincinnati Public Schools are public records under Revised Code 149.43, and Cincinnati Public Schools stores those records and is able to produce them in the form and format requested by School Choice Ohio.

53. School Choice Ohio has a clear legal right under Revised Code 149.43 to receive public records in the form and format it has requested, and Cincinnati Public Schools has a clear legal duty to provide the requested records in that form and format.

54. To the extent required by FERPA, Cincinnati Public Schools has or is readily able to provide all notices that may be required to produce the "directory information" contained in the records requested by School Choice Ohio.

55. Cincinnati Public Schools has violated Revised Code 149.43 by, among other acts and omissions, failing to produce the public records requested by School Choice Ohio while at the same time producing records within the scope of School

Choice Ohio's request to third parties, and by failing to provide any response to School Choice Ohio's February 24, 2014, public records request.

56. If Cincinnati Public Schools does not produce the requested public records, School Choice Ohio and all citizens of Ohio, and particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

57. School Choice Ohio has no plain and adequate remedy in the ordinary course of the law with respect to its public records request to Cincinnati Public Schools.

58. School Choice Ohio therefore entitled to a writ of mandamus ordering Cincinnati Public Schools to produce the public records School Choice Ohio requested.

59. School Choice Ohio further is entitled to recover statutory damages and its attorneys' fees and court costs associated with bringing this action from Cincinnati Public Schools under Revised Code 149.43.

Count II: Ohio Public Records Act – Springfield City Schools

60. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

61. Springfield City Schools has a clear legal duty to provide the records that School Choice Ohio has requested. The records that School Choice Ohio requested from Springfield City Schools are public records under Revised Code 149.43, and Springfield City Schools stores those records and is able to produce them in the form and format requested by School Choice Ohio.

62. School Choice Ohio has a clear legal right under Revised Code 149.43 to receive the public records in the form and format it has requested, and Springfield City Schools has a clear legal duty to provide the requested records in that form and format.

63. To the extent required by FERPA, Springfield City Schools has or is readily able to provide all notices that may be required under FERPA to produce the "directory information" contained in the records requested by School Choice Ohio.

64. Springfield City Schools' "Acceptable Use Policy & Directory Information Consent" form and policy satisfy any applicable requirements under FERPA for Springfield City Schools to disclose the "directory information" that School Choice Ohio has requested.

65. Springfield City Schools has violated Revised Code 149.43 by, among other acts and omissions, failing to produce the public records requested by School Choice Ohio while at the same time producing records within the scope of School Choice Ohio's request to third parties.

66. If Springfield City Schools does not produce the requested public records, School Choice Ohio and all citizens of Ohio, and particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

67. School Choice Ohio has no plain and adequate remedy in the ordinary course of the law with respect to its public records request to Springfield City Schools.

68. School Choice Ohio therefore entitled to a writ of mandamus ordering Springfield City Schools to produce the public records School Choice Ohio requested.

69. School Choice Ohio further is entitled to recover statutory damages and its attorneys' fees and court costs associated with bringing this action from Springfield City Schools under Revised Code 149.43.

Count III: R.C. 3319.321 – Cincinnati Public Schools

70. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

71. Cincinnati Public Schools has a clear legal duty to provide the records that School Choice Ohio has requested. Under Revised Code 3313.321(B)(2)(a), "no school district board of education shall impose any restriction on the presentation of directory information that it has designated as subject to release in accordance with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232q, as amended, to representatives of the armed forces, business, industry, charitable institutions, other employers, and institutions of higher education unless such restriction is uniformly imposed on each of these types of representatives, except that if a student eighteen years of age or older or a student's parent, guardian, or custodian has informed the board that any or all such information should not be released without such person's prior written consent, the board shall not release that information without such person's prior written consent."

72. During the relevant time, Cincinnati Public Schools has released "directory information" to charitable institutions, including parent-teacher and other school-related associations. Upon information and belief, Cincinnati Public Schools also has released "directory information" to representatives of the armed forces, business, industry, employers, institutions of higher education and other charitable institutions.

73. Cincinnati Public Schools has violated School Choice Ohio's clear legal rights under Revised Code 3313.321(B)(2)(a) by imposing restrictions on the disclosure of "directory information" to School Choice Ohio that it does not impose on others.

74. Because Cincinnati Public Schools refuses to produce the "directory information" School Choice Ohio has requested, it has improperly imposed restrictions on School Choice Ohio such that it has no plain and adequate remedy in the ordinary course of the law with respect to Cincinnati Public Schools' failure to comply with its duties and obligations under Revised Code 3313.321(B)(2)(a).

75. If Cincinnati Public Schools does not comply with its obligations under Revised Code 3313.321(B)(2)(a), School Choice Ohio and all citizens of Ohio, and particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

76. School Choice Ohio therefore is entitled to a writ of mandamus ordering Cincinnati Public Schools to comply with its duties and obligations under Revised Code 3313.321(B)(2)(a) by producing the public records that School Choice Ohio requested.

Count IV: R.C. 3319.321 – Springfield City Schools

77. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

78. Springfield City Schools has a clear legal duty to provide the records that School Choice Ohio has requested.

79. During the relevant time, Springfield City Schools has released "directory information" to third parties, including representatives of businesses, charitable institutions and institutions of higher education, and, upon information and belief, to representatives of the armed forces, industry and employers.

80. Springfield City Schools has violated School Choice Ohio's clear legal rights under Revised Code 3313.321(B)(2)(a) by imposing restrictions on the disclosure of "directory information" to School Choice Ohio that it does not impose on others.

81. Because Springfield City Schools refuses to produce the "directory information" School Choice Ohio has requested, it has improperly imposed restrictions on School Choice Ohio such that it has no plain and adequate remedy in the ordinary course of the law with respect to Springfield City Schools' failure to comply with its duties and obligations under Revised Code 3313.321(B)(2)(a).

82. If Springfield City Schools does not comply with its obligations under Revised Code 3313.321(B)(2)(a), School Choice Ohio and all citizens of Ohio, and

particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

83. School Choice Ohio therefore is entitled to a writ of mandamus ordering Springfield City Schools to comply with its duties and obligations under Revised Code 3313.321(B)(2)(a) by producing the public records that School Choice Ohio requested.

Count V: FERPA Practice and Policy – Cincinnati Public Schools

84. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

85. Upon information and belief, Cincinnati Public Schools adopted its current FERPA policy with respect to "directory information" at least in part to prevent or limit the ability of School Choice Ohio and others to obtain contact information for families of children attending school in the district to prevent or make it more difficult for School Choice Ohio and others to contact them and provide information regarding the education options that are available for their children, including opportunities under the scholarship programs outlined above.

86. At the same time, Cincinnati Public Schools has disclosed "directory information" to third parties in a manner that is contrary to the district's stated policy with respect to "directory information."

87. Under Revised Code 3313.321(B)(2)(a), School Choice Ohio has a clear legal right to receive the same types and categories of "directory information" that Cincinnati Public Schools has disclosed to third parties.

88. Cincinnati Public Schools has a clear legal duty to amend its policy to conform with its actual practice of disclosing "directory information" to ensure that it complies with its obligations under FERPA.

89. Public policy, as embodied in the school choice programs implemented by the General Assembly, the Ohio Public Records Act and the non-discrimination requirements under Revised Code 3313.321(B)(2)(a), further requires Cincinnati Public Schools to amend its policy to expressly permit disclosure of the "directory information" that School Choice Ohio has requested.

90. School Choice Ohio has no plain and adequate remedy in the ordinary course of the law with respect to Cincinnati Public School's FERPA policy.

91. If Cincinnati Public Schools does not amend its policy to expressly permit disclosure of the "directory information" School Choice Ohio has requested, School Choice Ohio and all citizens of Ohio, and particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

92. School Choice Ohio therefore is entitled to a writ of mandamus ordering Cincinnati Public Schools to amend its policy to expressly permit disclosure of the "directory information" School Choice Ohio requested.

Count VI: FERPA Practice and Policy – Springfield Public Schools

93. School Choice Ohio repeats, re-alleges and incorporates by reference each of the foregoing allegations.

94. Springfield City Schools adopted its current FERPA policy with the goal of preventing or limiting the ability of School Choice Ohio and others to obtain contact information for families of children attending school in the district to prevent or make it more difficult for School Choice Ohio and others to contact them and provide information regarding the education options that are available for their children, including opportunities under the scholarship programs outlined above.

95. At the same time, Springfield City Schools adopted its "Acceptable Use Policy & Directory Information Consent" form and policies with the intent of circumventing its restrictive FERPA policy so it could continue disclosing "directory information" to third parties at its sole discretion.

96. In practice, Springfield City Schools has used its FERPA policy and its "Acceptable Use Policy & Directory Information Consent" form and policies to deny School Choice Ohio's request for "directory information" and to disclose the same or similar information to third parties.

97. Under Revised Code 3313.321(B)(2)(a), School Choice Ohio has a clear legal right to receive the same types and categories of "directory information" that Springfield City Schools has disclosed to third parties.

98. Springfield City Schools has a clear legal duty to amend its FERPA policy and its "Acceptable Use Policy & Directory Information Consent" form and policies to conform with its actual practice of disclosing "directory information" to ensure that it complies with its obligations under FERPA.

99. Public policy, as embodied in the school choice programs implemented by the General Assembly, the Ohio Public Records Act and the non-discrimination requirements under Revised Code 3313.321(B)(2)(a), further requires Springfield City Schools to amend its policy to expressly permit disclosure of the "directory information" that School Choice Ohio has requested.

100. School Choice Ohio has no plain and adequate remedy in the ordinary course of the law with respect to Springfield City School's FERPA policy and its "Acceptable Use Policy & Directory Information Consent" form and policies.

101. If Springfield Public Schools does not amend its policy to expressly permit disclosure of the "directory information" School Choice Ohio has requested, School Choice Ohio and all citizens of Ohio, and particularly children eligible for Ohio's school choice scholarships, will suffer irreparable harm.

102. School Choice Ohio therefore is entitled to a writ of mandamus ordering Springfield City Schools to amend its policy to expressly permit disclosure of the "directory information" School Choice Ohio requested.

Prayer for Relief

WHEREFORE, School Choice Ohio prays that this Court enter judgment in favor of School Choice Ohio, Inc. and grant it the following relief:

1. An alternative writ of mandamus that establishes a schedule for submitting evidence and briefs on the merits;

2. A peremptory writ of mandamus that compels respondent Cincinnati Public School District to immediately:

   a. produce all of the public records requested by School Choice Ohio in its public records requests;

   b. comply with its obligations under Revised Code 3319.321 by producing the public records containing "directory information" requested by School Choice Ohio; and

   c. amend its policies and practice regarding the designation of "directory information" under FERPA and to provide any notices that may be required under FERPA for it to produce the "directory information" requested by School Choice Ohio.

3. A peremptory writ of mandamus that compels respondent Springfield City School District to immediately:

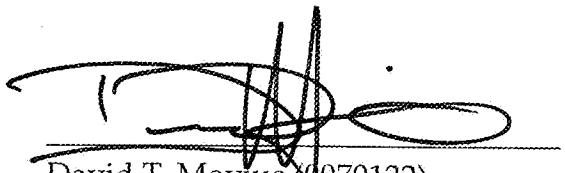
   a. produce all of the public records requested by School Choice Ohio in its public records requests;

b. comply with its obligations under Revised Code 3319.321 by producing the public records containing "directory information" requested by School Choice Ohio; and

c. amend its policies and practice regarding the designation of "directory information" under FERPA and to provide any notices that may be required under FERPA for it to produce the "directory information" requested by School Choice Ohio.

4. A peremptory writ of mandamus that awards to School Choice Ohio statutory damages, court costs and attorneys' fees; and

5. Such other relief as permitted by law.



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