

DISTRICT COURT, DENVER COUNTY, COLORADO 1437 Bannock Street Denver, Colorado 80202	DATE FILED September 1, 2022 4:51 PM FILING ID: ED416A952EE39 CASE NUMBER: 2022CV32315
DAVID MIGOYA, reporter at <i>The Denver Gazette</i> , and THE DENVER GAZETTE, Plaintiff, v. STACY WHEELER, in her official capacity as custodian of records, DENVER PUBLIC SCHOOLS, Defendant.	▲ COURT USE ONLY ▲
<i>Attorneys for Defendant:</i> M. Brent Case, No. 36623 Jonathan P. Fero, No. 35754 Semple, Farrington, Everall & Case, P.C. 1120 Lincoln Street, Suite 1308 Denver, Colorado 80203 Phone: 303.595.0941 Fax: 303.861.9608 bcase@semplelaw.com, jfero@semplelaw.com	Case No.: 2022CV032315 Courtroom No.: 409
ANSWER	

Defendant Stacy Wheeler, in her official capacity as custodian of records, Denver Public Schools (“DPS”), by and through her undersigned counsel, answers Plaintiff’s *Complaint/Application for Order to Show Cause* (“Complaint”) pursuant to C.R.C.P. 12(a)(1), as follows:

- A. Paragraph 1¹ consists of Plaintiff’s description of the relief it seeks in this action. DPS admits Plaintiff seeks this relief, but denies that Plaintiff is entitled to it.
- B. DPS denies the allegations within ¶¶ 2-3.

¹ All references to paragraphs in this Answer are to those in the Complaint.

- C. Paragraph 4 consists of Plaintiff's description of the relief it seeks in this action. DPS admits Plaintiff seeks this relief, but denies that Plaintiff is entitled to it.
- D. As to ¶ 5, DPS admits this Court has jurisdiction over Plaintiff's claim and that the records Plaintiff seeks can be found in this judicial district, but denies the remaining allegations therein.
- E. DPS lacks knowledge of the allegations within ¶¶ 6-7, which are therefore denied.
- F. DPS admits the allegations within ¶¶ 8-10.
- G. As to ¶¶ 11-12, DPS admits that its January 10, 2022 response is contained within Exhibit B to the Complaint, and denies all allegations of that paragraph to the extent they are inconsistent with said response.
- H. As to ¶¶ 13-16, DPS admits that it discussed with Plaintiff logistics and costs associated with Plaintiff's request for records; that some of said discussions are reflected in Exhibit B to the Complaint; that Plaintiff sent DPS a receipt for payment of \$1,170 to DPS; and that DPS asked for an extension of time of up to 7 working days to respond. DPS denies all remaining allegations within those paragraphs.
- I. As to ¶ 17, DPS admits that it ultimately denied Plaintiff's request and that said denial is contained within Exhibit C to the Complaint, and denies all remaining allegations within that paragraph.
- J. As to ¶ 18, DPS admits that Plaintiff's appeal of DPS' denial of his request is contained within Exhibit C to the Complaint, and denies all allegations of that paragraph to the extent they are inconsistent with said appeal.
- K. As to ¶ 19, DPS admits that DPS' denial of Plaintiff's appeal referenced in ¶ 18 is contained within Exhibit D to the Complaint, and denies all allegations of that paragraph to the extent they are inconsistent with said denial.
- L. DPS admits the allegations within ¶¶ 20-21.
- M. Each of ¶¶ 22-32 consists of recitation of statutes or characterization of caselaw that does not require a response. To the extent responses are required, DPS denies the allegations of those paragraphs to the extent they are inconsistent with the statutes or cases referenced.
- N. In response to ¶ 33, DPS incorporates its above responses.
- O. As to ¶ 34, DPS admits the records in question are writings, but denies they are available for public inspection.

- P. As to ¶ 35, DPS admits the allegations within the first sentence thereof, but denies the allegations within the second sentence thereof.
- Q. DPS denies the allegations within ¶ 36.
- R. Paragraph 37 consists of a recitation of legal authority to which a response is not required. To the extent a response is required, DPS denies the allegations of that paragraph to the extent they are inconsistent with the referenced authority.
- S. DPS admits the allegations within ¶ 38.
- T. Paragraph 39 consists of a recitation of legal authority to which a response is not required. To the extent a response is required, DPS denies the allegations of that paragraph to the extent they are inconsistent with the referenced authority.
- U. DPS affirmatively asserts pursuant to § 22-72-204(6)(a-b), C.R.S., that disclosure of the contents of said records would do substantial injury to the public interest.

WHEREFORE, DPS requests the Court order that: (i) its denial of the right of inspection of the records at issue was proper; (ii) in the alternative, that DPS is ordered or authorized to restrict disclosure of the records at issue because their disclosure would cause substantial injury to the public interest; and (iii) DPS shall be reimbursed for its costs in defending this matter.

RESPECTFULLY SUBMITTED this 1st day of September, 2022.

SEMPLÉ, FARRINGTON, EVERALL & CASE, P.C.

By: M. Brent Case
M. Brent Case, No. 36623
Jonathan P. Fero, No. 35754

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of September, 2022, a true and correct copy of the foregoing **ANSWER** was filed and served via Colorado E-filing System on the following:

Rachael Johnson (rjohnson@rcfp.org)
Attorney for Plaintiff

By: s/ Kathleen Schmidt