

STATE OF MINNESOTA  
COUNTY OF ANOKA

DISTRICT COURT  
TENTH JUDICIAL DISTRICT  
Case Type: Other Civil

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Center of the American Experiment,  
Plaintiff,

v.

**COMPLAINT**

Minnesota Department of Education;  
Willie Jett, Commissioner, in his official capacity  
as Responsible Authority,  
Defendants.

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Plaintiff Center of the American Experiment (“Plaintiff” or “CAE”), for its Complaint against Defendants Minnesota Department of Education (“MDE”) and Commissioner Willie Jett, in his official capacity as Responsible Authority, (collectively “Defendants”), states and alleges as follows:

**INTRODUCTION**

1. The Minnesota Department of Education and Commissioner Jett have now withheld important public data from Center of the American Experiment about the highly controversial Ethnic Studies Working Group’s draft “Framework” for 56 days. This is an unreasonable delay, and there is no excuse for their failure to turn over data of substantial public importance to CAE within a reasonable time period.

2. Even worse, MDE and Jett’s failures are part of an ongoing practice of “stonewalling” or “slow-rolling” responses to CAE when they are made. Earlier this year, CAE made similar requests to MDE and Jett seeking other information about the Ethnic Studies Working Group as part of its

ongoing investigation. Defendants ignored CAE for months on those requests until CAE's attorneys got involved, and then suddenly the data was produced.

3. Defendants' withholding of public data violates the Minnesota Government Data Practices Act ("DPA"), and the Court should now step in to order the disclosure of the data and an injunction preventing MDE from continuing to "stonewall" or "slow-roll" data productions in the future. Enough is enough.

4. CAE therefore brings this action seeking the production of data, declaratory and injunctive relief, and attorney fees and costs against Defendant under Minn. Stat. § 13.08, subd. 4. In addition, CAE seeks a declaration that MDE's and Jett's data processing practices are noncompliant with Minn. Stat. § 13.025, subd. 2 and 13.03, subd. 1-2 and equitable relief to remedy that noncompliance.

### **PARTIES**

5. Plaintiff Center of the American Experiment is a Minnesota nonprofit corporation with its regular place of business at 12600 Whitewater Drive, Suite 150, Minnetonka, Minnesota 55343.

6. Defendant Minnesota Department of Education is an agency of the State of Minnesota with its address at 400 NE Stinson Boulevard, Minneapolis, Minnesota 55413.

7. Defendant Willie Jett is the Commissioner of the MDE and the MDE's responsible authority for data practices. He is sued in his official capacity, and as such his address is the same as that of the MDE.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this matter pursuant to Minn. Stat. § 13.08, subd. 4, and Minn. Stat. § 484.01.

9. Venue is proper in this Court pursuant to Minn. Stat. § 13.08, subd. 3 because any action under section 13.08 involving the state may be brought in any county.

### **STATEMENT OF THE CLAIM**

#### ***The Framework Data Request***

10. The Minnesota Department of Education’s Ethnic Studies Working Group (“Group”) drafted a “Framework” that is expected to direct school districts on how to implement new ethnic studies requirements which are becoming part of Minnesota’s K-12 academic standards.

11. The September 24, 2024 meeting of the Group was its last as a working group.

12. In the September 24, 2024 meeting, the Group collaboratively worked on materials that were in existence before that meeting. In other words, there were materials produced in preparation for that meeting. These materials were and are public data.

13. In the September 24, 2024 meeting, the Group broke into sub-groups to work on the Group’s draft Framework.

14. In the September 24, 2024 meeting, the Group ended the meeting with a final version of the Group’s draft Framework. These materials were and are public data.

15. Attached as **Exhibit 1** is a screenshot of the meeting video showing that a draft Framework was created in “view only” mode, such that it would not be edited further.

16. Under the Group’s Working Assumptions for Adults, Defendant MDE admits that the Group’s “[m]embership and work completed by the working group is public, therefore it is accessible to the public upon request.” The Working Assumptions are attached as **Exhibit 2**.

17. On October 2, 2024, Plaintiff submitted a data request (“Framework Data Request”) through its undersigned attorneys to Defendants MDE through Jett, as Responsible Authority, and through its Data Practices Compliance Officer at the email addresses for those responsible

authorities published on MDE’s website. A copy of the email and attached request are attached as **Exhibit 3**.

18. The Framework Data Request asked for the final draft Framework and other data, as follows:

- a. All materials produced in preparation for the Ethnic Studies Working Group meeting held on September 24, 2024, including but not limited to the Ethnic Studies Working Group Deliverable Draft (“ESWG Deliverable Draft” or “Deliverable Draft”), the Alignment Tool(s) document, and any other responsive documents saved in the Working Group’s Google Drive folder.
- b. All materials finalized by the Ethnic Studies Working Group during the September 24, 2024 meeting, including but not limited to the Ethnic Studies Working Group Deliverable Draft (“ESWG Deliverable Draft” or “Deliverable Draft”), the Alignment Tool(s) document, and any other responsive documents saved in the Working Group’s Google Drive folder.

19. Since all of the materials for the Group are public data, Defendants could have simply forwarded on a copy of each document described in the request.

20. Instead, Defendants ignored Plaintiff’s request.

21. After hearing nothing for 23 days, on October 25, 2024, Plaintiff’s counsel followed up by emailing another letter to the Defendants again requesting these simple documents. A copy of the email and attached letter are attached as **Exhibit 4**.

22. In that letter, Plaintiff’s counsel informed Defendants:

- a. Plaintiff made the Data Request 23 days prior;
- b. Defendants failed to acknowledge it;
- c. Defendants have an obligation to respond within a reasonable time;
- d. The Commissioner of Administration has opined that delays of less time than Defendants’ delay—for more complex data requests—is unreasonable; and
- e. Defendants’ failure to provide the requested information by October 28, 2024 will result in legal action.

23. As of November 27, 2024, the date this Complaint is being filed, Defendants have failed to respond at all to the Framework Data Request. It has been 56 days since Plaintiff made the Framework Data Request.

24. The data Plaintiff seeks are public data within the meaning of the DPA.

25. Defendants' failure to respond to the Framework Data Request at all, and failure to provide the responsive data, within 56 days to Plaintiff's request is unreasonable and not prompt.

### *The April Data Requests*

26. This is not the first time Defendants have violated their obligations under the DPA to Plaintiff.

27. On April 19, 2024, Plaintiff submitted two data requests ("April Data Requests") to Defendants related to similar issues vis-à-vis the Group: one for a list of the members of the Group, and another for documents distributed in or created during the April 2024 meeting of the Group. A copy of these requests is attached as **Exhibit 5**.

28. On April 19, 2024, Plaintiff received what appeared to be an automatic response to the April Data Requests, and nothing more.

29. After receiving no response, Plaintiff followed up to ask about the status of the April Data Requests on April 26, May 1, May 31, and June 17, 2024.

30. Defendants ignored these follow-up correspondences.

31. Having heard nothing for nearly three months in response to the April Data Requests, Plaintiff retained counsel, who sent a letter to Defendants demanding the data on July 16, 2024. A copy of the July email and letter are attached as **Exhibit 6**.

32. In response, on July 17, 2024, Defendant MDE responded through its Data Practices Compliance Official stating that "I've been juggling quite a few data requests and large projects

over the last several months. I hope you understand this was not an intentional delay on my part and I'm actively working on your request now." A copy of the July 17 response from MDE is attached as **Exhibit 7**.

33. On July 19, 2024, MDE provided another email update on the April Data Requests. A copy of the July 19 response is attached as **Exhibit 8**.

34. On July 22, 2024, more than 3 months after the April Data Requests were made, Defendants provided the requested data.

### ***Defendants' Insufficient Procedures and Damages***

35. On two separate occasions now, Defendants have either failed or refused to provide public data responsive to Plaintiff's requests in a reasonable and prompt timeframe. Defendants' responses have been entirely unreasonable and dilatory.

36. Upon information and belief, based on Defendants' failure to respond and provide data within a reasonable time to simple data requests such as the April Data Request and the Framework Data Request, Defendants do not have procedures in place to insure that requests for government data are received and complied with in an appropriate and prompt manner.

37. Upon information and belief, based on Defendants' failure to respond and provide data within a reasonable time to simple data requests such as the April Data Request and the Framework Data Request, Defendants do not keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use.

38. Upon information and belief, Defendants' failure to produce data and maintain proper procedures to produce data are willful and knowing.

39. Defendants' failure to produce data in response to the Framework Data Request is willful and knowing because the data exists, Defendants received Plaintiff's request and follow-up, and

upon information and belief Defendants have intentionally withheld the data, and for other reasons to be discovered.

40. Defendants' failure to maintain proper procedures is willful and knowing because Defendants previously acknowledged they were inadequately responding to Plaintiff's April requests and failed to remedy that internal failure, and for other reasons to be discovered.

41. Defendants' failure to reasonably and promptly respond to Plaintiff's requests violates Plaintiff's right of access to government data and its right to access that data within a reasonable time.

42. Plaintiff has suffered nominal and actual damages by Defendants' violations described herein and by not being able to discuss with the public the information in the data sought in this case, in an amount to be proven at trial.

43. Plaintiff has not been able to produce journalism on matters of public concern, has spent time and incurred cost in challenging Defendants' unlawful conduct, has lost employee time challenging Defendants' unlawful conduct, and more.

44. Based on the known existence of the data sought and Defendants' failure to provide it, and upon other information and belief, Defendants' violations of the DPA are willful and knowing.

45. Plaintiff's damages continue to accrue.

46. Because Defendants' violations of the DPA are willful, Defendants are liable for exemplary damages of not less than \$1,000 and not more than \$15,000 for each violation, and Plaintiff seeks an award of the same.

47. The state has waived any immunity in this action under Minn. Stat. § 13.08, subd. 1.

**CAUSES OF ACTION**

**COUNT I**

**(Action to Compel Disclosure of Framework; Injunction; Damages)**

48. Plaintiff realleges and incorporates by reference the allegations above.

49. The DPA “establishes a presumption that all government data are public and are accessible by the public for both inspection and copying unless there is federal law, a state statute, or a temporary classification of data that provides that certain data are not public.” Minn. Stat. § 13.01, subd. 3.

50. Under the DPA, “upon request to a responsible authority or designee, a person shall be permitted to inspect and copy public government data at reasonable times and places, and, upon request, shall be informed of the data's meaning.” Minn. Stat. § 13.03, subd. 3.

51. Under the DPA, a plaintiff may bring an action for damages, an injunction, and to compel compliance, including the production of withheld data. Minn. Stat. § 13.08.

52. In addition, the rules corresponding to the DPA require that “the responsible authority shall provide for a response to a request for access within a reasonable time.” Minn. R. 1205.0300.

53. Defendants have failed to produce the data requested in the Framework Data Request within a reasonable time, in violation of the DPA and its implementing rules.

54. Plaintiff is entitled to immediate disclosure of the requested data pursuant to Minn. Stat. §§ 13.03, subd. 1, and 13.08, Subds. 2 & 4.

55. Plaintiff has been damaged by Defendants’ failure to disclose the data in a reasonable amount greater than \$50,000, to be determined by a jury at trial.

56. Defendants’ failure to produce the data is willful and knowing, as alleged herein. Plaintiff is thus also entitled to exemplary damages against Defendant for failing to produce the data requested within a reasonable timeframe, up to \$15,000 for this violation of the DPA.



57. Should Plaintiff prevail in this matter, Plaintiff is entitled to costs and disbursements incurred in this matter.

58. Should Plaintiff prevail in this matter, the Court should award attorney fees to Plaintiff and against Defendant pursuant to an appropriate post-judgment motion for the same.

## COUNT II

### **(Declaration and Injunction to Reform Defendants' Improper Practices; Injunction; Damages)**

59. Plaintiff realleges and incorporates by reference the allegations above.

60. Pursuant to Minn. Stat. § 555.01, the Court has the authority to declare the parties' rights and other legal relations in this matter. The Court may issue an injunction to ensure compliance with its declaration. Minn. Stat. § 555.08.

61. Pursuant to Minn. Stat. § 13.08, subd. 2, the Court may also enjoin a responsible authority or government entity from violation of the DPA.

62. As alleged above, Defendants have violated Plaintiff's rights under the DPA.

63. Based on Defendants' unreasonable response to each of Plaintiff's requests and pattern of noncompliance with the DPA, upon information and belief, Defendant does not have procedures in place sufficient to ensure prompt and appropriate responses to Plaintiff's and other citizens' requests under the DPA. Minn. Stat. § 13.03, subds. 1 & 2.

64. Based on Defendants' unreasonable response to each of Plaintiff's requests and pattern of noncompliance with the DPA, upon information and belief, Defendant does not keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use. Minn. Stat. § 13.03, subds. 1 & 2

65. Plaintiff thus prays for a declaration that Defendants have violated the DPA by failing to have proper procedures in place to respond to Plaintiff's request and requests like Plaintiff's, and

that Defendant's procedures for responding to data requests do violate and continue to violate the DPA.

66. Plaintiff also prays for an injunction against Defendants' ongoing violations of the DPA, and for any injunctive or equitable relief available to ensure Defendants reform their procedures to comply with the DPA.

67. Plaintiff has been damaged by Defendants' failure to have appropriate policies to respond to DPA requests, in a reasonable amount greater than \$50,000, to be determined by a jury at trial.

68. Defendants' failure to have proper procedures in place to respond to Plaintiff's data requests is willful and knowing. Plaintiff is thus also entitled to exemplary damages against Defendant for failing to produce the data requested within a reasonable timeframe, up to \$15,000 for this violation of the DPA.

69. Should Plaintiff prevail in this matter, Plaintiff is entitled to costs and disbursements incurred in this matter.

70. Should Plaintiff prevail in this matter, the Court should award attorney fees to Plaintiff and against Defendant pursuant to an appropriate post-judgment motion for the same.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that this Court:

- a) Order a jury trial, which is hereby demanded, on any issues so triable.
- b) Compel Defendants' immediate production of the requested and outstanding data, as alleged herein.
- c) Declare that Defendants have not properly kept records easily accessible for convenient use, in violation of the DPA.
- d) Declare that Defendants have not produced the requested data in response to the

Framework Data Request within a reasonable time, in violation of the DPA.

e) Declare that Defendants' procedures for processing data requests and producing public data in response to them violate Plaintiff's rights under the DPA because they are insufficient to ensure appropriate and prompt access to public data.

f) Permanently enjoin Defendants from using improper procedures in response to data requests by Plaintiff and others like Plaintiff, and order Defendants to reform their practices within a reasonable time after entry of judgment, not to exceed 30 days.

g) Assess a civil penalty against Defendant as authorized in Minn. Stat. § 13.08, subd. 4;

h) Award nominal, actual, and general damages against Defendants and in favor of Plaintiff in a reasonable amount to be proven at trial greater than \$50,000.

i) Award exemplary damages against Defendants and in favor of Plaintiff in the amount of \$15,000 per violation of the DPA as alleged herein.

e) Award Plaintiff reasonable attorney fees, costs, and disbursements, as authorized in Minn. Stat. § 13.08, subd. 4 and pursuant to a proper post-judgment request for the same; and

f) Order such additional relief as the Court may deem just and proper.

DATED: November 27, 2024

**UPPER MIDWEST LAW CENTER**

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**ACKNOWLEDGEMENT**

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, subd. 2, to the party against whom the allegations in this pleading are asserted.

Dated: November 27, 2024

By: /s/ James V. F. Dickey  
James V. F. Dickey, #393613