

April 15, 2024

Ms. Laura E. Elsbury
Chief Disciplinary Counsel
3327 American Avenue
Jefferson City, MO 65109-1016

Re: Hazelwood School District Board of Education Complaint Against Missouri
Attorney General Andrew Bailey

Dear Ms. Elsbury:

I am the attorney for the Hazelwood School District Board of Education. The undersigned elected Board of Education for the Hazelwood School District wishes to file an ethics complaint against Missouri's Attorney General, Andrew Bailey based on the facts cited below, which they believe to be in violation of the Mo. Rules of Professional Conduct and the ABA Model Rules of Professional Conduct. I concur with that position and file this complaint against Mr. Bailey concurrently.

Underlying Facts:

On March 22, 2024, the Superintendent of Schools, Dr. Nettie Collins-Hart, received an email from Mr. Bailey's office which notified Dr. Collins-Hart that the Attorney General's office was investigating the Hazelwood School District ("HSD") and its Board of Education (Exhibit A). This "Notice of Investigation" was simultaneously emailed to media outlets both local and national. The District immediately began receiving media inquiries regarding this communication from the AG's office.

Mr. Bailey stated in this correspondence that the District/Board was under investigation for violations of the Missouri Human Rights Act ("MHRA") and requested extensive documents be provided to his office. Unfortunately, many "facts" cited by Mr. Bailey as cause for this investigation were untrue, which Mr. Bailey would have realized with the most basic of investigation based on information readily available. I responded to Mr. Bailey, on behalf of the Board, in correspondence dated March 26, 2024 (Exhibit B), outlining the inaccuracies contained in his March 22nd Notice of Investigation, which included:

- HSD does have School Resource Officers in its school located within the City of Hazelwood. The District has hired more than 60 security officers and security monitors that are assigned to all schools that do not have SROs.
- The fight referenced in Mr. Bailey's letter occurred on March 8, 2024 (not March 11, 2024 and occurred after school hours (not "during the middle of the school day"). The fight actually occurred more than 1/2 mile from the school.

- SROs do not respond to events that occur away from the school building or outside of school hours (this fact was reported the day prior to Mr. Bailey's letter being sent to the HSD via statement from the St. Louis County prosecutor, Wesley Bell), despite Mr. Bailey's claim that SROs could have prevented the fight from occurring or would have been on the scene to "protect Ms. Gain or restore order."
- Police investigation of the incident has not indicated that race was a factor in the fight between the two minor students (this fact was reported the day prior to Mr. Bailey's letter to the HSD via statement from the police department investigating the fight) despite Mr. Bailey's contention that race was a factor.

This letter also pointed out that Mr. Bailey's interest in this matter was only because a white student had been involved and that he had failed to show such outrage when student fights occurred which involved only black students, one in which a student was killed by stabbing.

Mr. Bailey responded in a letter, also dated March 26, 2024 (and sent to news media outlets) that he was continuing his investigation without providing any actual facts or reasonable cause to support his investigation (Exhibit C). I responded on behalf of the Board to the inaccuracies in his correspondence, and again complained that Mr. Bailey's investigation was not based on a reasonable belief a violation of the MHRA had occurred but agreed to provide the requested documents on or before April 15, 2024 (Exhibit D).

Violations of the ABA Model Rules of Professional Conduct:

The HSD Board of Education believes that Mr. Bailey has acted contrary to the ABA Model Rules of Professional Conduct, as follows:

1) ***Mo. Rules of Professional Conduct 4-3.1 (ABA Rule 3.1) (Bringing of Meritorious Claims)*** requires members of the Bar to avoid bringing or defending a frivolous claim, or asserting a claim which lacks a good-faith basis. The facts of this case do not seem to lend themselves to the assumption that Mr. Bailey's claim is good faith based. Rather, the AG's actions seem politically motivated and misguided as evidenced by his allegations misstatement of crucial facts and his sharing of these communications with uninvolved media outlets. The AG references his powers under Section 213.216 RSMo to bring action against HSD. This statute states that the AG may act if he *reasonably believes* a group is engaged in a pattern of discrimination under the MHRA. Mr. Bailey alleges in Exhibit A that the HSD violated the MHRA by allegedly placing too much importance on race-based policies (without citing any such policy), which resulted in the HSD lack of SROs on campus, which directly resulted in the incident that took place on March 8, 2024. This logic is flawed, as pointed out in Exhibit B. Based on the actual facts and findings, which were at all times readily available to Mr. Bailey, it follows that the AG's claim is frivolous and lacks a good faith basis. Mr. Bailey's claims are politically motivated, as

indicated by his notifying the news media and are meant to embarrass and harass the HSD while advancing his standing amongst his own political base.

2) ***Mo. Rules of Professional Conduct 4-3.8 (ABA Rule 3.8) (Special Responsibilities of Prosecutor)*** requires a prosecutor to refrain from extrajudicial comments which have a substantial likelihood of heightening public condemnation of the accused. Here, the AG shared his correspondence between his office and the HSD with news outlets simultaneously, forcing the HSD to respond to his mainly false allegations in kind. Conduct such as this seems to directly oppose the guidelines of Rule 3.8 and certainly did, in fact, heighten the public's condemnation of the HSD because the public jumped to conclusions, assuming the HSD was responsible as the result of the AG's publicity stunts. The comments to Rule 3.8 state that the announcement of an indictment is not conduct a prosecutor needs to refrain from, but simply a statement of facts and states the prosecutor's intentions. However, in this case, the AG's reaching out to the media when sharing correspondence that included numerous easily refuted inaccuracies is vastly different than announcing an indictment after facts have been vetted.

3) ***Mo. Rules of Professional Conduct 4-4.1 (ABA Rule 4.1) (Truthfulness in Statements to Others)*** requires truthfulness and candor on behalf of all attorneys. Rule 4.1(b) explicitly states that lawyers may not knowingly make a false statement of material fact or law to a third party. In this present matter, the AG's comments and allegations contained in his correspondence to the HSD, which he broadly shared with news media outlets and on his website, contained numerous false statements, including the wrong date, time and location of the incident and inaccuracies about the HSD's policies, procedures and the Board's Statement of Solidarity. The AG claims in Exhibit C that he obtained his information from news sources (and cites only one such source). However, the news media in all other coverage of the situation accurately reported these facts. The AG has the responsibility to ensure his allegations are correct before publishing such correspondence and sharing it with news outlets. The AG either knew these statements to be false, or failed to take the necessary measures to ensure his statements were accurate.

4) ***Mo. Rules of Professional Conduct 4-8.4 (ABA Rule 8.4) (General Misconduct)*** subsection (c) forbids dishonest conduct, while subsection (d) forbids conduct prejudicial to administration of justice and subsection (g) aims to prevent harassment or discrimination due to race. Comments on the ABA rules state that "harmful verbal conduct that manifests bias or prejudice towards others" constitutes harassment. It is important to note, as stated in Exhibit B, the AG's lack of comments when non-white students were victims of similar violence in other school districts. The AG alleges that the fight between a white female student and a black female student, which occurred after school hours and off school property, was because of race and a result of the school board's solidarity statement and its emphasis on diversity, equity and inclusion ("DEI") while providing a false narrative to support that position. He further alleges that if there were school resource officers employed at the high school, they would have been able to prevent the incident. He fails to acknowledge that the HSD had employed security officers and monitors; but more importantly, he fails to acknowledge that the police investigators and the St. Louis County prosecutor had both concluded that the fight had nothing to do

with race and that SROs would not have addressed or prevented an incident that did not occur on school property during school hours.

As a result of AG Bailey's irresponsible and political actions, the HSD Board, staff and I have received numerous emails and phone calls from all over the country containing hate-filled messages. Employees answering phones are called the "n" word or "n-lover". Bomb threats have been made to individual employees and at schools, to which law enforcement have had to respond. Fortunately, these have been false alarms. However, his actions have caused staff, students and parents to fear for their safety.

We believe that Attorney General Andrew Bailey must be held to the same standards as all other attorneys under the Mo. Rules of Professional Conduct and the ABA Model Rules of Professional Conduct and request that you take appropriate action to prevent Mr. Bailey from conducting himself in this manner in the future.

Should you have any questions regarding this Complaint, or should you need additional information, please contact me directly. The undersigned elected members of the Hazelwood School District Board of Education fully support this Complaint and request an inquiry be opened into the conduct described in this correspondence.

Sincerely,



Cindy Reeds Ormsby


Cheryl D. Latham, Board President
Sylvester Taylor, II, Board Vice President
Sparkl A. West-Pruitt, Treasurer
Robert Birdsong, Secretary
Andrea R. Gregory, Director
Diane Livingston, Director
Elizabeth A. Rachel, Director



ATTORNEY GENERAL OF MISSOURI

ANDREW BAILEY

March 22, 2024

Dr. Nettie Collins-Hart, Superintendent
Hazelwood School District
15955 New Halls Ferry Rd.
Florissant, MO 63031
via email to: ncollinshart@hazelwoodschoools.org

**RE: Notice of Investigation - Hazelwood School District and the
Hazelwood Board of Education**

Dear Ms. Collins-Hart:

I am disturbed that it appears Hazelwood School District (“HSD”) has ignored long-standing Missouri law and elevated political narrative above student safety. In 2020, the HSD Board of Education adopted a “Statement of Solidarity” compelling the district to, among other things: categorize and treat students differently based on race; “recruit, hire and promote” staff based on race; and “reevaluate” the district’s relationship with local police.¹ Beginning with the 2021 school year, after unsuccessfully trying to subject its school resource officers (“SROs”) to the district’s diversity, equity and inclusion programing, Hazelwood removed uniformed police officers from its schools.² To date, SROs are still not present in Hazelwood East schools.³

Two weeks ago, on March 11, 2024, during the middle of the school day, a Hazelwood East High School student, Kaylee Gain, was viciously assaulted on a street near school property by another student. As of this writing, Ms. Gain remains in critical condition in a St. Louis area hospital. Notably, during the attack on Ms. Gain, which was captured on video by other students, not a single school resource officer was on the scene to protect Ms. Gain or restore order. The absence of SROs on the scene is

¹ Hazelwood School District Board of Education – Statement of Solidarity, available at <https://www.hazelwoodschoools.org/site/default.aspx?PageType=3&DomainID=4&ModuleInstanceID=43&ViewID=6446EE88-D30C-497E-9316-3F8874B3E108&RenderLoc=0&FlexDataID=19903&PageID=1>

² <https://www.ksdk.com/article/news/local/hazelwood-sro-program-paused-diversity-inclusion-training/63-2d9424eb-f044-4ac7-b81b-c29c2198d723>

³ <https://fox2now.com/news/fox-files/police-and-school-admin-cant-agree-on-training-forcing-sros-out-of-most-schools/>

directly attributable to Hazelwood's insistence on prioritizing race-based policies over basic student safety. By its actions, HSD has endangered not only Ms. Gain, but the general school community writ large.

Raced-based policies are anathema to Missouri law. The Missouri Human Rights Act ("the Act" or "MHRA") guarantees every Missouri resident the right to be free from discrimination and the right to full enjoyment of places of public accommodation.⁴ The Act also vests the Missouri Attorney General's Office with enforcement authority where, as here, the attorney general has reasonable cause to believe a violation of the Act has occurred implicating a matter of public importance.⁵

By this letter, I am notifying you of my office's investigation into HSD for violations of the MHRA. I demand HSD and its Board of Education turn over the following records to my office immediately, as required by Missouri law:⁶

1. All records constituting the District's or Board's bullying, anti-bullying, harassment, or anti-harassment policies in effect from August 1, 2022 to present.
2. All records constituting the District's or Board's policies concerning teacher or staff intervention into incidents of student-involved violence, harassment, or bullying in effect from August 1, 2022 to present.
3. All records concerning any decision to exclude uniformed law enforcement from any Hazelwood school from August 1, 2020 to present, including records of any such decision, internal or external communications about such decisions, and records containing reasons for any such decisions.
4. All requests from any individual (whether student, staff, member of the public, law enforcement agency, or government employee) requesting the presence of security personnel or law enforcement at any school in the District from August 1, 2020 to present.
5. All records of the District or Board denying a request for security personnel or law enforcement at any school in the District from August 1, 2020 to present.

⁴ Chapter 213, RSMo.

⁵ § 213.126, RSMo.

⁶ See Chapter 610, §§ 213.075, and 213.126, RSMo.

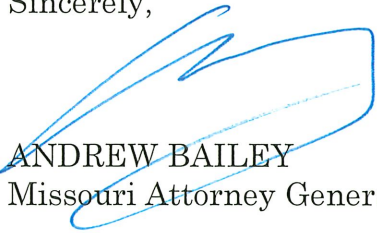
6. The District or Board's discrimination or anti-discrimination policies concerning employment or employees in effect from August 1, 2022 to present.
7. The District or Board's discrimination or anti-discrimination policies in education or for students in effect from August 1, 2022 to present.
8. All draft and final versions of the Diversity, Equity, and Inclusion Action Plan (for reference, the public version is currently available at: <https://www.hazelwoodschoools.org/domain/3419>), as well as all correspondence and documents relating to the development of the Plan.
9. All records concerning complaints or feedback about the Diversity, Equity, and Inclusion Action Plan from the time of the Plan's finalization through present.
10. All draft and final versions of the "Racial Equity Policy" (for reference, the public version is currently available at: https://drive.google.com/file/d/1_idvktG8bSpN5xNLZXqD4CAZR Cw3Q_7/view), as well as all correspondence and documents relating to the development of the Racial Equity Policy.
11. All records concerning complaints or feedback about the Racial Equity Policy from the time of the Policy's finalization through present.
12. Any records showing statistics of the District from August 1, 2020 to present of the number of current employees by race at any point during that timeframe; number of applicants for employment by race at any point during that timeframe; number of hires by race at any point during that timeframe; number of employment terminations by race at any point during that timeframe; and number of adverse employment actions (such as suspensions or performance plans) by race at any point during that timeframe.

This investigative demand and request for public records is submitted in the public interest and is likely to contribute significantly to public understanding of the operation or activities of the District and the Board. The Attorney General's Office seeks to understand the topics contained in the records above and provide

information to the public about the same. As a governmental agency, this Office is acting in the public interest in submitting this request.

If access to any record is denied, I request a statement of the grounds for denial containing all information required under Section 610.026.4.

Sincerely,



ANDREW BAILEY
Missouri Attorney General

Cc: Kristina Allen, custodian of records and Board Secretary,
kallen2@hazelwoodschoools.org

March 26, 2024

Mr. Andrew Bailey
Missouri Attorney General
Broadway Building
P.O. Box 899
Jefferson City, MO 65102
Via email to: Andrew.Bailey@ago.mo.gov

Re: Your Notice of Investigation of the Hazelwood School District and
Hazelwood School District Board of Education

Dear Mr. Bailey:

I represent the Hazelwood School District. Imagine my surprise and disappointment when your letter dated March 22, 2024 regarding your investigation into the Hazelwood School District and its Board of Education was forwarded to my attention Friday afternoon. It is disappointing to have an attorney general that intentionally disrespects public school district administrators and elected officials by sending error filled correspondence to intimidate and threaten their leadership. It is surprising that you are opening an investigation based on lies that you could have easily ascertained if you would have taken a few minutes to fact check prior to sending your correspondence. However, I am not surprised that you continue to politicize your appointment to the office of Attorney General by spouting falsehoods that only serve to rile your base without complying with the Rules of Ethics to which you are bound. I am not surprised that you sent your correspondence to news outlets at the same time you sent it to the school district to further those political motivations.

Following are some of the inaccuracies that were contained in your correspondence along with some clarifying facts:

- The Hazelwood School District ("HSD"), and all school districts who use school resource officers ("SROs") do so by negotiated contract. The HSD has schools located in three (3) municipalities: St. Louis County, the City of Florissant, and the City of Hazelwood. HSD currently has a contract with the City of Hazelwood for SROs, who are present in schools located in that municipality.
- The HSD has hired more than 60 security officers and security monitors that are assigned to all of their school buildings that do not have SROs.
- The fight you reference in your letter did not occur on March 11, 2024. It occurred on Friday, March 8, 2024.

Exhibit B

- The fight you reference in your letter did not occur “during the middle of the school day” but occurred after school hours more than a quarter of a mile from school property.
- The presence of SROs in the school building would not have prevented a fight from occurring off school property and outside of the school day and would not have resulted in SROs being “on the scene to protect Ms. Gain or restore order”.
- The Statement of Solidarity you refer to in your correspondence is not board policy. You have failed to identify a single “race-based policy” that has led to the absence of SROs and how such policy was prioritized over student safety.

The Board would also note that there has been no press coverage about your concern or outrage when the Riverview Gardens School District and the Ferguson-Florissant School District were forced to move to virtual instruction for a few days following major brawls among students during school hours – where SROs were present and on duty. Or when a Jennings School District student was stabbed and killed while he was on his way home from school during a group fight just a week after Kaylee was injured. Or after a Normandy Schools Collaborative student allegedly assaulted a teacher. You did not send letters to those districts copying the news media about your concerns. Is that because you have assumed, without official verification, that the March 8th altercation was between a white student and a black student, while the other incidents were black-on-black student or student/teacher encounters? Do you value white students’ safety more than black students’ safety? Do you honestly believe, again, without any official verification or specific knowledge, that the fight on March 8th was a result of a racial issue between the female students that was caused by the HSD belief in the importance of diversity, equity and inclusion for all? What community do you represent as the Missouri Attorney General? Do you represent all citizens of Missouri? Or only the white citizens? Your lack of care about the accuracy of the allegations you make, combined with your false assumptions about the security provided by the HSD could lead to the belief that you are not the attorney general for ALL Missouri citizens, but rather only for those that look and believe as you do. Do you understand that without equity, there is inequity and without inclusion, there is exclusion? It is the Hazelwood School District and its Board’s expectation that you use your position and resources honorably, to ensure that all Missouri citizens are regarded and treated equally. The HSD would be happy to share its DEI initiatives with your office to assist in that endeavor.

Finally, because this incident involved minors, the findings of the police investigation cannot be released. Additionally, as you should be aware, because this incident involved students, their records and private information cannot be shared by the HSD under the Family Education Rights and Education Act (“FERPA”). Therefore, whatever investigation you purported to conduct into this matter is necessarily incomplete and your determination to reach self-serving and inaccurate conclusions is dangerous and will likely be an embarrassment to you and your office when and if the facts become known to you and the general public.

As is clear from the above, your allegations that the District has violated the Missouri Human Rights Act is based on a false narrative that has been created by you. Your obvious racial bias against majority minority school districts is clear. Therefore, the Hazelwood School District demands that you cease your investigation into the District for violations of the MHRA until and unless you can provide accurate information that indicates a violation has occurred. We believe no such evidence exists based on the facts. Should you reframe your records request as a Sunshine Law request, we will provide any records that are open under Chapter 610 of Missouri Revised Statutes. Until such a request is received, no records will be provided.

Sincerely,



Cindy Reeds Ormsby
Attorney for Hazelwood School District

cc: Dr. Nettie Collins-Hart
Hazelwood School District Board of Education
Various media outlets



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

March 26, 2024

Cindy Reeds Ormsby
Attorney For Hazelwood School District
130 S. Bemiston Avenue, Suite 200
St. Louis, MO 63105
Sent via email: COrmsby@chgolaw.com

Dear Ms. Ormsby:

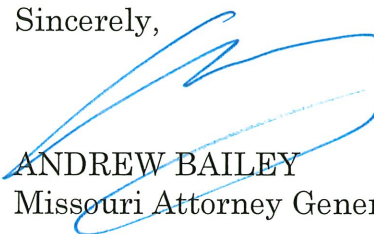
I write in response to your letter declining to process a clear request for records under Chapter 610 of Missouri's statutes as well as to correct your misunderstanding about the nature of my office's investigation.

In your letter, you allege "inaccuracies" concerning the student fight that occurred earlier this month that resulted in serious injuries to a Hazelwood East High School student. My letter cited several sources for information, including publicly-available reporting and the District's own policies. The most egregious "error" you identify is an incorrect date reference that was reported in local media. As with any investigation, my office seeks to uncover facts surrounding the incident at issue. An incident you openly acknowledge involved Hazelwood East students.

You may not knowingly and purposefully refuse to comply with Chapter 610 simply because you disagree with this investigation. Chapter 610 requires a public governmental body, like Hazelwood School District and its Board of Education, to turn over records or provide a three-day letter explaining why you are not disclosing the requested documents. My request is an unmistakable Chapter 610 request. I sent the letter to the District's custodian of records and specifically referenced Chapter 610. You must respond to my records request immediately, no later than tomorrow, March 27th, at 5:00 p.m.

Instead of directing your ire at a date reference or making ad hominem attacks, you should follow Missouri law and do so immediately.

Sincerely,


ANDREW BAILEY
Missouri Attorney General

Broadway Building
P.O. Box 899
Jefferson City, MO 65102
Phone: (573) 751-3321
Fax: (573) 751-0774
www.ago.mo.gov

Exhibit C

March 27, 2024

Mr. Andrew Bailey
Missouri Attorney General
Broadway Building
P.O. Box 899
Jefferson City, MO 65102
Via email

Re: Reply to Sunshine Law Request

Dear Mr. Bailey:

I'd like to clarify that my letter did not indicate that your "most egregious error" was the incorrect date (and time) of the incident. Your most egregious errors are your unsupported allegations that race was a factor in the incident and that school resource officers would have been on the scene of an incident that occurred after school hours and one-half mile from school property. St. Louis County Police and the St. Louis County prosecutor have debunked both of those allegations.¹ As such, you have no reasonable cause to believe a violation of the MHRA has occurred and your investigation of the Hazelwood School District is unwarranted and without merit.

The district acknowledges receipt of your Sunshine Law request. Due to the nature and breadth of your request, we will make every attempt to provide the requested records by April 15, 2024. Should that date change, I will provide your office with notification.

Sincerely,



Cindy Reeds Ormsby
Attorney for Hazelwood School District

cc: Dr. Nettie Collins-Hart
Hazelwood School District Board of Education
Various Media Outlets

Exhibit D

¹ "No, DEI didn't contribute to a violent assault that critically injured a Hazelwood East Student", <https://www.ksdk.com/article/news/verify/verify-police-prosecutors-push-back-against-false-misleading-claims-attorney-general-andrew-bailey/63-45b00537-5966-482b-9d71-451499490753>