

September 15, 2023

VIA EMAIL

Custodian of Records
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, AR 72201
Kalee.Haywood@ade.arkansas.gov

Re: Arkansas Freedom of Information Act Request

Dear Custodian of Records:

Pursuant to the Arkansas Freedom of Information Act of 1967, Ark. Code § 25-19-101, I, a citizen of Arkansas, make the following request to the Arkansas Department of Education (ADE).

On August 14, 2023, ADE Secretary Jacob Oliva announced that AP African American Studies would be removed from the state's approved course list.¹ Secretary Oliva also sent a letter to school superintendents requiring schools offering an AP African American Studies class to submit by September 8, 2023, course materials and "statement[s] of assurance" that the course "will not violate Arkansas law or rule."² I seek public records with the potential to shed light on these official actions that have significant implications for Arkansas students.

Requested Records

1. All records reflecting any informal or formal policy, guidance, directives, or protocol issued by the ADE to schools and education leaders regarding compliance with Executive Order 23-05 or the LEARNS Act 237 of 2023.
2. All records reflecting reviews prepared by the ADE, or otherwise provided to the agency, concerning the College Board's Advanced Placement African American Studies course compliance with Executive Order 23-05, the LEARNS Act 237 of 2023, or any other applicable law.

¹ Antoinette Grajeda, *Arkansas Education Secretary Defends AP African American Studies Decision*, Ark. Advoc. (Aug. 14, 2023, 7:32 PM), <https://arkansasadvocate.com/2023/08/14/arkansas-education-secretary-defends-ap-african-american-studies-decision/>.

² Josh Snyder, *Oliva Tells Districts to Supply State with African American Studies Course Materials for Review*, Ark. Democrat Gazette (Aug. 23, 2023, 7:20 AM), <https://www.arkansasonline.com/news/2023/aug/23/oliva-tells-districts-to-supply-african-american/>.

3. Any formal or informal documents expressing dissent (such as formal memoranda, ethics complaints, or email communications) regarding the ADE's review of the College Board's Advanced Placement African American Studies course.

For part three of this request, I request all such documents received from employees, appointees, or contractors of the ADE, the College Board, Little Rock School District, Jacksonville North Pulaski School District, North Little Rock School District, Jonesboro School District, or eStem Public Charter Schools. To be clear, I am not asking your agency to release the names of any individuals who have submitted responsive documents and do not object to withholding the name of any individual expressing dissent.

For all parts of this request, please provide all responsive records from October 1, 2022, through the date the search is conducted.

Fee Waiver Request

In accordance with Ark. Code Ann. § 25-19-105, I request a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

I request a waiver of fees because disclosure of the requested information is in the public interest.³ The public has a significant interest in the ADE's decision to remove AP African American Studies from the state's approved course list.⁴ Records with the potential to shed light on that decision, as well as on Secretary Oliva's request for statements and materials from school superintendents, would contribute significantly to public understanding of operations of the government, including input, if any, of external actors. I am committed to transparency and intend to make records provided in response to this FOIA request publicly available, and the public's understanding of the government's activities would be enhanced through publication of these records.

This request is primarily and fundamentally for noncommercial purposes. I am a Little Rock resident who cares about public education and our local schools, and my request for these records has no commercial purpose.

Accordingly, I qualify for a fee waiver.

Guidance Regarding the Search & Processing of Requested Records

³ Ark. Code Ann. § 25-19-105(3)(A)(iv).

⁴ See, e.g., Char Adams, *Arkansas Education Department Won't Allow Credit for AP African American Studies Course*, NBC News (Aug. 14, 2023, 5:56 PM), <https://www.nbcnews.com/news/nbcblk/arkansas-education-department-wont-allow-credit-ap-african-american-st-rcna99791>.

In connection with my request for records, I provide the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. I seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions.
- My request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email, unless otherwise noted above.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records in response to this request, **please do not hesitate to make contact through American Oversight to discuss this request**, at the contact information below:

Elizabeth Haddix, American Oversight
Telephone: (252) 359-7424 ext. 1031
Email: records@americanoversight.org

We welcome an opportunity to discuss this request with you before you undertake your search or incur search or duplication costs. By working together at the outset, we can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email at the following addresses: Ashley@rsalawgroup.com and records@americanoversight.org. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records, please also provide responsive material on a rolling basis.

We look forward to working with your agency on this request. **If you do not understand any part of this request, or if my request for a fee waiver is not granted in full, please make contact using the information listed below.**

Sincerely,

/s/ Ashley Stepps
Ashley Stepps