

Michael P. Talia
 JACKSON, MURDO & GRANT, P.C.
 203 N. Ewing St.
 Helena, MT 59601
 (406) 442-1300
mtalia@jmgattorneys.com

Attorneys for Plaintiffs

**IN THE MONTANA FIRST JUDICIAL DISTRICT COURT
 LEWIS AND CLARK COUNTY**

HANNAH CAIL and BEAGAN WILCOX
 VOLZ,

Plaintiffs,

v.

HELENA ELEMENTARY SCHOOL
 DISTRICT #1,

Defendant.

Cause DV-25-2025-0000160-DK

Hon. Christopher D. Abbott

**FIRST AMENDED COMPLAINT FOR
 DECLARATORY RELIEF**

INTRODUCTION

Plaintiffs allege Helena Elementary School District #1 (“the District”) failed to honor Plaintiffs’ rights to know, participate, and observe in District operations as required by Article II, Sections 8 and 9 of the Montana Constitution and detailed in Title 2, Chapter 3, Parts 1 and 2, and Title 2, Chapter 6, Part 10, Montana Code Annotated.

The violations of these rights by the District demonstrate an unwillingness to honor the rights of citizens to observe and participate in the operations of government and demand immediate remedy and ongoing monitoring to correct the culture of noncompliance which exists

within the District. As the District embarks on a series of major projects and operational changes, compliance with these basic and fundamental rights guaranteed to each Montanan is paramount.

JURISDICTION AND VENUE

1. This Court has jurisdiction in accordance with Sections 3-5-302, 2-3-113, 2-3-213, and 2-6-1009, MCA.

2. This Court has jurisdiction to award declaratory relief in accordance with Section 27-8-201, MCA.

3. Venue is proper in the First Judicial District in accordance with Section 25-2-211, MCA, because the Helena Elementary School District #1 exists within, and Plaintiffs are citizens of, Lewis and Clark County, Montana, and the acts and omissions giving rise to Plaintiffs' claims occurred in this County.

PARTIES

4. Plaintiff Hannah Cail is a citizen of Lewis and Clark County, taxpayer in the District, and parent of a student enrolled in the District who was deprived of an opportunity to observe and participate in the activities of the District.

5. Plaintiff Beagan Wilcox Volz is a citizen of Lewis and Clark County, taxpayer in the District, and parent of students enrolled in the District who was deprived of an opportunity to observe and participate in the activities of the District.

6. Defendant is Helena Elementary School District #1, a distinct political subdivision established in accordance with Article X of the Montana Constitution and governed in accordance with the laws of Title 2 and Title 20 of Montana Code Annotated.

7. Defendant is governed by an elected Board of Trustees who, in turn, hire and

supervise an administrative staff including a District Superintendent and adopt governance and operational policies.

BACKGROUND ALLEGATIONS

8. On February 25, 2025, Superintendent Rex Weltz (“Weltz”) informed the entire Hawthorne Elementary School (“Hawthorne”) staff that he had decided to tell the District Board of Trustees to close Hawthorne at the conclusion of the 2024-2025 academic year.

9. Weltz stated at this gathering that he “had the votes on the Board” to support this decision to close Hawthorne.

10. During the March 11, 2025, meeting of the District Board of Trustees, Weltz presented a course of action for District facilities that included closing Hawthorne by June 30, 2025. This course of action did not appear on the published meeting agenda or publicly provided meeting materials.

11. The course of action presented on March 11, 2025, was based on the District’s draft facilities master plan. This plan was developed by a committee of District officials which included members of the Board of Trustees, administrative staff, and the District’s retained architecture firm. These meetings were not posted to the public as required by law. Plaintiffs learned of these meetings during the March 11, 2025, meeting of the Board of Trustees. To Plaintiffs’ knowledge, the dates of the unnoticed meetings to develop the facilities master plan may include but are not limited to July 20, 2023, August 16, 2023, September 20, 2023, October 16, 2023, November 27, 2023, December 20, 2023, January 24, 2024. Further, Plaintiffs assert many of these meetings were held outside of a publicly accessible District building without proper findings as required by Section 20-3-322(3), MCA.

12. The District’s committee which considered the facilities master plan was

performing an official function of the District.

13. On March 12, 2025, Weltz informed the Hawthorne Parent Council of the course of action that included closing Hawthorne at the conclusion of the 2024-2025 academic year. At this meeting, Weltz indicated there were plans regarding the reorganization of the District's elementary schools including where displaced Hawthorne students would attend school, but he refused to share the details with the public.

14. On March 13, 2025, Weltz informed a community gathering of Hawthorne employees, parents, students, and neighbors of the course of action that included Hawthorne being closed at the conclusion of the 2024-2025 academic year. At this meeting, Weltz indicated there was (1) a potential tenant for a soon-to-be vacated Hawthorne building; (2) a plan for where displaced students from Hawthorne would attend school beginning at the 2025-2026 school year; (3) new attendance boundaries for other affected elementary schools in the District to take effect for the 2025-2026 school year; and (4) financial and enrollment data developed by District supporting the closure of Hawthorne and reorganization of other elementary schools but that he would not provide this information to the public.

15. During the March 13, 2025 community gathering, Weltz stated that he "met with some of the trustees to tell them about the plan before it was made public." Based on this statement, Plaintiffs assert Weltz met with members of the District's Board of Trustees and administrative team on or before the meeting with the Hawthorne staff on February 25, 2025, and they continued to meet in private, for the purposes of restructuring and reorganizing the schools in the District including the closure of Hawthorne.

16. The meetings between Weltz, other members of the administrative team, and members of the District's Board of Trustees to discuss and determine how to reorganize and

restructure the District's schools, including the closure of Hawthorne, that were held on or before February 25, 2025, and have been held since February 25, 2025, were not published to the public.

17. Throughout March, April, and May 2025, members of the Board of Trustees regularly met with Weltz and other members of the administrative team at the District's administrative offices to discuss and determine how to restructure and reorganize the District, including the closure of Hawthorne, without providing notice of these meetings to the public. Many of these meetings occurred on Tuesdays at 11:00 am during the same identified period.

18. On March 12, 2025, the Board of Trustees engaged in a closed session to evaluate Weltz's performance. This closed session began at 5:23 P.M. and concluded at 8:36 P.M. meaning the Board meeting was closed to the public for 3 hours and 13 minutes. The duration of the 2024 Board evaluation of Weltz lasted 2 hours 20 minutes. Plaintiffs assert the process regarding restructuring and reorganizing of the District, including closure of Hawthorne, were discussed at this closed session to circumvent the public's rights to know, observe, and participate.

19. The Board held a hearing on April 9, 2025, to review the possible closure of Hawthorne. During this hearing the Board of Trustees limited public comment to two minutes per person. This limitation of public comment was not completed by adoption of a District policy or motion of the Board. This improper limitation on public comment time allotment resulted in discrimination against those individuals opposed to the closure of Hawthorne, who were the majority of commentators.

20. Throughout April and May 2025, presentations to the Board of Trustees regarding restructuring and reorganizing of the District, including closure of Hawthorne, were not noticed

to the public as part of a Board meeting agenda. These presentations and supplemental information were delivered as part of the “Reports” section of the meeting with Weltz and other members of the administrative team providing results of the aforementioned strategy meetings held without public notice to the public.

21. On May 9, 2025, parents of students attending Hawthorne received an email from the District stating parents would be receiving a formal letter providing information about where their students would be attending school in 2025-2026 if Hawthorne were to be closed by the Board of Trustees. As of May 9, 2025, no action or decision about the attendance areas or boundaries of those areas had been made by the Board of Trustees.

22. Citizens were not permitted to attend the unnoticed meetings to observe the deliberations of the District as required by Article II, Section 9 of the Montana Constitution and Section 2-3-203, MCA.

23. Throughout March, April, May, and June 2025, Plaintiffs and other citizens submitted requests for records related to the possible closure of Hawthorne on topics including but not limited to enrollment, finances, safety, transportation, and facilities. This Board is required to consider these topics in accordance with Policy 9150. Despite the Board’s consideration of these factors which would make supporting data readily available, the District either ignored the request for records or asserted the compilation of data would result in costs to requesting citizens. Section 2-6-1006, MCA.

24. By virtue of not knowing about or not being able to attend meetings held without public notice and limitations on public comment periods, citizens were not permitted to participate in the development of the decision to close Hawthorne, or to observe the district’s deliberations leading to that decision, as required by Article II, Section 8 of the Montana

Constitution and Section 2-3-103, MCA.

RIGHTS OF THE PUBLIC

25. “The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.” Article II, Section 8, Montana Constitution.

26. “No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.” Article II, Section 9, Montana Constitution.

27. “The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.” Section 2-3-201, MCA.

28. “The purpose of this chapter is to ensure efficient and effective management of public records and public information, in accordance with Article II, sections 8 through 10 of the Montana constitution, for the state of Montana and its political subdivisions.” Section 2-6-1001, MCA.

29. The District held unnoticed meetings between members of the administrative staff and members of the Board of Trustees on or before February 25, 2025, and continued to hold such meetings through June 10, 2025, for the purposes of deliberating and determining the structure and organization of the District’s elementary schools and developing a facilities master

plan.

30. The closure of one or more schools, the process for assigning students from closed schools, the process of assigning staff from closed schools, the disposal or reclassification of school buildings, the development of new school attendance boundaries, the closure of Hawthorne, and a general plan for the future of the District's elementary school structure and organization was discussed, developed, and agreed upon by the District's administrative staff and individual members of the Board of Trustees during these unnoticed meetings.

31. These meetings were held in violation of Article II, Sections 8 and 9 of the Montana Constitution and Section 2-3-103, MCA, and Section 2-3-203, MCA (commonly referred to as "open meeting and public participation laws").

32. The meetings were subject to open meeting and public participation laws because the meetings were supported with public funds, the meetings were regularly and frequently held so non-ministerial policy matters of significant interest to the public could be discussed and deliberated by District officials acting in their official capacity, the District officials who attended the meetings hold executive authority, and the meetings resulted in an established course of action for the District. Sections 2-3-103 and 2-3-203, MCA.

33. Only the Board of Trustees has the authority to close a school in the District in accordance with Article X, Section 8 of the Montana Constitution and Section 20-6-509, MCA. The statute specifically requires the Board of Trustees to complete a finding that the closure of the school is in the best interests of the students. Such a finding has to be completed in accordance with Sections 2-3-103 and 2-3-203, MCA, to satisfy the rights of parents, students, employees, taxpayers, and citizens specified in Article II, Sections 8 and 9 of the Montana Constitution.

34. Only the Board of Trustees has the authority to lease school property in accordance with Article X, Section 8 of the Montana Constitution and Section 20-6-607, MCA. The statute specifically requires the Board to specify the amount of any lease and approve execution of any lease. These decisions must be completed in accordance with Sections 2-3-103 and 2-3-203, MCA, to satisfy the rights of parents, students, employees, taxpayers, and citizens specified in Article II, Sections 8 and 9 of the Montana Constitution.

35. The District's unnoticed meetings have resulted in a decision to restructure and reorganize the District, including the closure of Hawthorne, without public observation and participation. The District attempted to disguise this decision through meetings with stakeholders held on March 11, 12, and 13, and April 9, 2025, to give the appearance of public participation.

36. The District's failure to provide public records and information related to the course of action to restructure and reorganize the schools in the District, including the closure of Hawthorne, during the meetings held with stakeholders as well as in response to formal records requests is in violation of Article II, Section 9 of the Montana Constitution and Section 2-6-1006, MCA.

37. Plaintiffs have each, separately and repeatedly from on or about March 1, 2025 through June 10, 2025, requested from the District the documents and materials relied upon by the District in support of its decision to close Hawthorne. The District responded to those requests indicating that it several hours of staff time, at costs ranging from hundreds to over a thousand dollars, would be required to compile those documents and materials. This indicates that the District did not consider key documents or information in reaching its decision, or that the District was deliberately hindering Plaintiffs from obtaining the requested information.

VIOLATIONS OF RIGHTS OF THE PUBLIC

38. Section 2-3-201, MCA, requires the open meeting and public participation laws be “liberally construed” because the “people of the state do not wish to abdicate their sovereignty to the agencies which serve them.” The discussions of any plan about the education of students in the District using public facilities and public funds shall be held in full view of the public with the public encouraged to participate in accordance with Article II, Sections 8 and 9 of the Montana Constitution.

39. The District’s failure to honor open meeting and public participation laws has resulted in an established course of action regarding the boundaries, structure, and organization of the elementary schools within the District in which parents, students, employees, citizens, and taxpayers did not have an opportunity to observe or participate.

40. On February 24 and 25, 2025, this established course of action was presented as finalized to the District’s parent advisory group and employees at Hawthorne by Weltz when he indicated the school would be closed at the conclusion of the 2024-2025 academic year with support of the Board of Trustees.

41. On March 11, 2025, the decision to close Hawthorne by June 30, 2025, was included as part of a course of action provided to the Board of Trustees without appearing on the published meeting agenda or publicly available meeting materials. This course of action was based on a draft facilities master plan developed without public observation and participation as required by law.

42. Weltz’s statements at community meetings on March 12 and 13, and April 9, 2025, that information was available regarding the decision to restructure and reorganize schools in the District, including the closure of Hawthorne, but that the information would not be provided to

the public has deprived the parents, students, employees, taxpayers, and citizens of their right to know about and participate in the decisions about the future of the District's elementary schools as required by law.

43. The hearing held on April 9, 2025, did not provide the Board with sufficient perspective from the public due to discrimination on the basis of viewpoint in order for the Board to determine whether the potential closure of the school was in the "best interests of the affected pupils" as required by Section 20-6-509, MCA, or specific consideration of factors required in Policy 9150.

44. The public's comments about the closure of Hawthorne could not be properly informed because the public lacked the same information considered by the District and the Board of Trustees.

45. The public Board packet distributed on June 8, 2025, for the June 10, 2025, Board meeting did not include information stating the recommended closure of Hawthorne was in the best interests of the affected pupils as required by Section 20-6-509, MCA, or consideration of the factors required by Policy 9150. Rather, it only included a one sentence memorandum stating the District Superintendent recommended the school be closed prior to the 2025-2026 school year. The public was denied an explanation other than generic references to budget matters.

46. The motion adopted by the Board of Trustees on June 10, 2025, to close Hawthorne did not mention or include a finding or even a reference that the closure of Hawthorne was in the best interests of the students enrolled in Hawthorne or the students enrolled in the schools where displaced Hawthorne students will be enrolled in violation of Section 20-6-509, MCA.

47. The motion adopted by the Board of Trustees on June 10, 2025, to close Hawthorne did not mention consideration of any of the factors detailed in or even a reference to Policy 9150 in violation of the Respondent's established procedures.

48. The Board of Trustees deviated from its established practice of taking online comments from members of the public attending the meeting remotely, and took no such comments regarding the potential closure of Hawthorne, before voting to close Hawthorne.

49. The meeting packet, the information discussed and relied upon in view of the public, and the motion adopted during the June 10, 2025, indicates the decision to close Hawthorne was made during unnoticed meetings. These improper discussions removed the Board's need to have full and complete information in the Board packet, a full and complete discussion during the meeting, or a comprehensive motion capturing the need to close Hawthorne as required by statute and policy. The decision to close Hawthorne was predetermined prior to June 10, 2025, and deprived the public of their right to know, observe, and participate. The District took immediate steps to implement the closure decision by the following day, indicating that the decision was made by the Board of Trustees well before its June 10 meeting.

50. The only recourse available to Plaintiffs is to seek relief requiring the District to provide public records and information and require the District to establish procedures and protocols which fully honors the rights of citizens and authority of the Board of Trustees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court to:

(a) Find and declare that Defendant's refusal to provide Plaintiffs and the public of the District with sufficient notice of meetings regarding the development of a facilities master plan,

restructuring, reorganizing of elementary schools in the District, and the closure of Hawthorne deprived the same members of the public, including Plaintiffs, the opportunity to observe and participate in said meetings in violation of Article II, Sections 8 and 9 of the Montana Constitution;

(b) Find and declare that, by this conduct, Defendant has repeatedly violated Section 2-3-103, MCA and Section 2-3-203, MCA;

(c) Order Defendant to preserve all documents, correspondence, emails, calendars, budgets, and memoranda regarding possible closure, lease, disposal, restructuring, reorganizing of schools in the District and provide copies of said items to Plaintiffs in accordance with Section 2-6-1006, MCA;

(d) Order Defendant to unseal and release to the Plaintiffs the March 12, 2025, closed session meeting minutes taken in accordance with Section 2-3-212(4), MCA;

(e) Order Defendant to honor Article II Sections 8 and 9 of the Montana Constitution as well as supporting and applicable statutes when operating all aspects of the District;

(f) Appoint a standing master to monitor the operations of the District for compliance with the public's right to know, observe, and participate for a period of five years to ensure ongoing compliance with the order issued as requested in Section (e);

(k) Award Plaintiffs their reasonable attorney's fees, costs, and expenses under Section 2-3-114, MCA, Section 2-3-221, MCA, and Section 2-6-1009, MCA, or any other applicable law; and

(j) Grant such other and further relief as this Court deems just and proper.

DATED this 9th day of July, 2025.

JACKSON, MURDO & GRANT, P.C.

By: Michael P. Talia

Michael P. Talia

Attorneys for Plaintiffs