



# TECHNOLOGY ACCESS DURING COVID-19 AND BEYOND

An Education Equity Issue



Education Justice Program at Legal Services of Eastern Missouri  
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## EXECUTIVE SUMMARY

This white paper presents an issue that has taken on new dimensions and urgency in light of the COVID-19 pandemic: equitable access to necessary technology for student learning. Drawing on client stories, news sources, research reports, community surveys, records requests, and legal analysis, the Education Justice Program at Legal Services of Eastern Missouri focuses on breaking down the problem and opening the door to solutions. For some readers, this white paper may explore entirely new concepts, and for others, it may build upon their own lived experiences. Whatever a reader's background, we hope that the information shared herein will be valuable in creating a deeper understanding of the ways to further education equity by prioritizing technology access.

### **Technology Is a Critical Part of Today's Education Landscape.**

Now more than ever, technology is an integral part of students' learning. The COVID-19 pandemic has increased schools' reliance on technology, both in the in-person classroom and in virtual settings, and it has allowed for innovation in learning models. But it has also exacerbated the "digital divide": the gap between those who have access to technology and its benefits and those who do not. In Missouri and across the nation, students of color are disproportionately affected by lack of access to technology devices and the Internet for virtual learning. Families are dealing with these digital inequities alongside many other pandemic-related learning challenges, including trauma and mental health struggles, lack of stability in instruction, lack of high-quality virtual instruction, difficulties with childcare and space, lack of technological literacy support, lack of support for students with disabilities and students experiencing homelessness, exclusionary discipline, and staff shortages.

### **The Education Justice Program Investigated Technology Inequities During the Pandemic.**

In response to growing concerns raised by clients and community members about how technology barriers are compounding other inequities, particularly for Black children and low-income children, the Education Justice Program undertook an investigation into this issue during 2020 and 2021. In addition to gathering information directly from client families, the Education Justice Program distributed a Technology Access Survey to client communities and submitted records requests to nine different school districts. The Education Justice Program used this qualitative information to analyze patterns in student technology access in the St. Louis region.

### **Families Experience a Variety of Barriers to Equitable Technology Access in Missouri Districts.**

The Education Justice Program's investigation revealed several recurring themes in how the problem of technology inequity has manifested during the pandemic. These include deposits that must be paid before devices are distributed; fines for lost, stolen, or damaged devices; mandatory technology agreements binding families to high fees; lack of education during quarantine due to outstanding technology charges; barriers to graduation caused by outstanding fines; financial burdens and uncertainties for families; and a lack of clear, current district policies related to technology.

## **Technology Practices Implicate Federal and State Laws.**

The pandemic has forced school districts to grapple with novel questions about best practices for using technology, but they still must abide by federal and state laws that protect students' equal access to free public education. Legal considerations must take into account the Missouri Constitution's guarantee of free public schools, which prevents districts from charging fees for necessary school materials, and Missouri contract law's prohibition against unconscionable agreements. In addition, federal and state Equal Protection laws may help ensure that technology access is equitable, and other federal laws may protect students with disabilities and students experiencing homelessness from technology fees.

## **Opportunities Exist to Address Technology Barriers and Inequities in Schools.**

Despite the many challenges that the pandemic has caused and deepened for students, this moment is also a unique time to reevaluate and re-envision education priorities. An influx in federal, state, and local funding could help schools creatively address technology access issues and uphold their legal obligations to students. Opportunities for school districts could involve ensuring that all students have access to necessary technology, waiving past technology fees and fines, developing data collection practices to promote transparency, purchasing comprehensive insurance for all district devices, using clear and accessible language, reviewing technology practices for graduation barriers, reviewing documents related to technology, and seeking family and community input to address technology barriers. Families, educators, and community members all have a role to play in promoting technology equity, too. We hope that this white paper provides a springboard for more curiosity and conversations around how Missouri schools can best serve all students in this changing education landscape.

## INTRODUCTION

Since March 2020, education has been disrupted in unprecedented ways, revealing and exacerbating existing systemic problems. As students, schools, and communities navigate the chaos and uncertainty of the COVID-19 pandemic, many are reflecting on how to leverage this moment to create and sustain more equitable education systems. At the Education Justice Program (“EJP”) at Legal Services of Eastern Missouri, we work to target the root causes of education inequity, using a race equity lens and a community lawyering model. Since its inception in 2017, EJP has focused on combatting the school-to-prison pipeline<sup>1</sup> as well as disparities in education access and outcomes for students of color, particularly Black students. Our team—made up of three attorneys and one social worker—partners with parents, students, and community organizations to center community voice in understanding the barriers that our client communities face and taking action to address them through individual representation, impact litigation and other systemic advocacy, policy analyses, and community legal education and empowerment. Over the course of the COVID-19 pandemic, time and time again, we have witnessed how inadequate access to technology has compounded the many other challenges our clients face to hinder access to an education. We have also observed how technological barriers—in particular, fees and fines charged to families—have deepened existing educational disparities between students in lower-income families and students from middle-class and wealthy families. These disparities are not just socioeconomic; they are also an important issue of racial justice.

Our clients’ experiences are borne out in data and in the responses we received to requests for information that we sent to numerous school districts pursuant to the Missouri Sunshine Law and the Illinois Freedom of Information Act.<sup>2</sup> Despite the Missouri Constitution’s guarantee of “free public schools”<sup>3</sup> and other laws that protect families from being charged for an education, it appears that the majority of Missouri school districts have imposed technology fees and fines that disproportionately burden low-income families and disproportionately affect Black families. The purpose of this white paper is to describe the significantly deleterious effect of technology fees and fines on students’ education and to urge school districts to reconsider their unlawful technology practices that perpetuate educational inequity.

The white paper is divided into five sections. In Section I, we explain how the issue of technology barriers fits within the current education landscape, highlighting the digital divide<sup>4</sup> before and after the COVID-19 pandemic, the current role of technology in schools, and other systemic problems that intersect with technology access difficulties. Section II describes how we

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<sup>1</sup> This is a national trend disproportionately affecting students of color “wherein children are funneled out of public schools and into the juvenile and criminal justice systems.” *School-to-Prison Pipeline*, AMERICAN CIVIL LIBERTIES UNION, <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline> (last updated 2022).

<sup>2</sup> School districts, as government agencies, are required to respond to such requests pursuant to the Missouri Sunshine Law, MO. REV. STAT. § 610.011 et seq., and the Illinois Freedom of Information Act, 5 ILCS § 140/1 et seq. When we use the term “school district” throughout this white paper, we are including both traditional public school districts and public charter schools.

<sup>3</sup> MO. CONST. art. IX, § 1(a).

<sup>4</sup> The digital divide in education refers to the “gap between those with sufficient knowledge of and access to technology and those without.” *Understanding the Digital Divide in Education*, AMERICAN UNIVERSITY SCHOOL OF EDUCATION ONLINE PROGRAMS (Dec. 15, 2020), <https://soeonline.american.edu/blog/digital-divide-in-education>.

conducted our investigation into technology barriers during the pandemic, outlining the sources that led us to dig into this issue and providing context about the school districts from which we requested information through public records requests. Section III explores our findings through stories from Missouri families encountered by EJP and a review of school districts’ own policies and records that we received through public records requests. Next, in Section IV, we briefly address the legal ramifications of technology barriers to education access. Section V concludes with opportunities for districts, educators, parents, and community members to move forward in addressing this issue.

## I. CONTEXT: TECHNOLOGY IN TODAY’S EDUCATION LANDSCAPE

### A. *The Necessity of Technology for Education*

Given the ubiquity of technology in today’s society, children must know how to use it in order to learn. School districts across Missouri recognize the increasingly critical role that technology plays in K-12 education.<sup>5</sup> For example, St. Louis Public Schools’ virtual learning website states that schools’ “focus is transitioning from *how to use technology* to *how to use technology to transform learning*.”<sup>6</sup>

Adults who have been out of school for some time may find it difficult to comprehend the revolutionary shift toward complete integration of technology in schools. Imagine, however, that you are a fifth grade Missouri public school student in 2022. You may be one of the thousands of Missouri students learning 100% virtually for the 2021-2022 school year. You almost certainly will have spent at least some portion of the 2019-2020 and 2020-2021 school years doing “distance learning” or “remote learning.” During initial COVID-19 school shutdowns in the spring of 2020, you and the other 50 million K-12 Missouri public school students who were learning remotely needed an internet connection and an electronic device in order to access education.<sup>7</sup> You received all your instruction, all your assignments, and all your assessments virtually. You had to log onto Zoom or Microsoft Teams for your daily lessons. You turned in

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<sup>5</sup> See, e.g., *1:1 Technology Revolution*, RITENOUR SCHOOL DISTRICT, <https://www.ritenour.k12.mo.us/domain/535> (last updated 2022) (“Ritenour High School’s 1:1 technology initiative reinforces the 21st century skills students need in order to be successful in college and careers”); *Technology*, MAPLEWOOD-RICHMOND HEIGHTS SCHOOL DISTRICT, <https://www.mrhschools.net/Page/171> (last updated 2022) (noting that the district “truly is at the forefront of the paradigm shift that is taking place throughout education, and while technologies continue to advance, our solid technological foundation will allow our district to explore and implement those advancements quickly and effectively when appropriate for the betterment of our students”); *Rolla Public Schools Technology Plan 2018-2022*, ROLLA PUBLIC SCHOOLS 3, [https://p10cdn4static.sharpschool.com/UserFiles/Servers/Server\\_19966669/File/Departments%20&%20Programs/2018\\_RPS\\_Tech\\_Plan.pdf](https://p10cdn4static.sharpschool.com/UserFiles/Servers/Server_19966669/File/Departments%20&%20Programs/2018_RPS_Tech_Plan.pdf) (last accessed Jan. 25, 2022) (“The Rolla School District will use technology to develop and empower responsible student learners, facilitate professional growth opportunities for educators and leaders, engage parents and community in school culture, and ensure effective, equitable and efficient use of resources”).

<sup>6</sup> *Transforming with Technology—Reimagining Education*, ST. LOUIS PUBLIC SCHOOLS, <https://www.slps.org/Page/68861> (last updated 2022).

<sup>7</sup> Amy Shelton, et al., *The Pandemic Digital Divide in Missouri: Rural Students Most Likely to Lack Full Access to Technology*, 3 PRIME CTR. 1 (June 2021), <https://static1.squarespace.com/static/5c8a78c9e5f7d15aab22c61c/t/60c3a44ee0dda0635b118a83/1623434318660/COVID-19+Technology+Access.pdf>.

your homework through an online portal and asked your teacher for help through an email or a virtual chat.

Even if you are attending school in person all or part of the time, technology is likely integrated into every aspect of your school day. You probably have a Chromebook or a tablet that was assigned to you at the beginning of the school year. On this device, you may participate in “knowledge checks” or other interactive lessons in class, read e-textbooks, conduct online research, complete writing assignments, or do math quizzes during the school day. You may take this device home with you to do homework, study for tests, and work on projects. This technology may be the primary (or even the only) way you communicate with your teacher and check your grades. If you are one of the hundreds of thousands of Missouri students who receives accommodation for a disability,<sup>8</sup> you may receive essential support services and therapies virtually.

As COVID-19 persists, you or someone you know probably has had to stay home from in-person learning due to an exposure to the virus. During your mandated quarantine, you would have had to rely on technology to access any sort of quality education.<sup>9</sup> With the rise of new variants, your district may be so short-staffed that it has been forced to consider remote learning once again or virtual learning all day in the in-person classroom.<sup>10</sup> Having access to a technological device and a reliable internet connection at home has been crucial for you and your classmates to maintain any sort of educational stability.

### *B. The Digital Divide*

Unfortunately, not all students are able to seamlessly access the technology that is now woven into the fabric of education. The “digital divide” has deepened racial and socioeconomic disparities among students in the United States since the integration of technology into the classroom. The digital divide includes the gap in access to high-speed internet connectivity and to individual physical devices from which to access this connection. Schools, due to budget and resource constraints, have struggled to keep up with the pace at which technology has been integrated in American education since the early 2000s. The most under-resourced districts are often least able to ensure equitable technology access for their students.<sup>11</sup> Consequently, the digital divide persists and impacts students across all 50 states.<sup>12</sup>

Before COVID-19, nearly a third of American public K-12 students lived in homes without internet connections or devices adequate for distance learning at home.<sup>13</sup> This lack of access

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<sup>8</sup> This could be through an Individualized Education Program (“IEP”) under the Individuals with Disabilities Education Act (“IDEA”) or a Section 504 plan under Section 504 of the Rehabilitation Act.

<sup>9</sup> Aside from virtual learning, the only alternative method of “instruction” we have seen districts employ for quarantined students has been paper packets, often unstandardized and insubstantial.

<sup>10</sup> See, e.g., Justina Coronel, *Normandy School District Approves New Learning Plan to Help with Staffing Shortages*, 5 ON YOUR SIDE (Jan. 14, 2022), <https://www.ksdk.com/article/news/education/normandy-school-district-approves-learning-plan-help-staffing-shortages/63-ce4a9f34-fd30-4d5a-9b74-8189578eaf37>.

<sup>11</sup> *Understanding the Digital Divide in Education*, *supra* note 4.

<sup>12</sup> *Understanding the Digital Divide in Education*, *supra* note 4.

<sup>13</sup> Sumit Chandra, et al., *Closing the K-12 Digital Divide in the Age of Distance Learning*, COMMON SENSE MEDIA 6 (2020),

disproportionately affects Black, Latinx, and Native American households.<sup>14</sup> In addition to limited internet access, 19% of low-income students have access to only one device in their household.<sup>15</sup> This is three times higher than the rate of more privileged students who only have access to one device in their household.<sup>16</sup> A significant driver of the digital divide is affordability.<sup>17</sup> According to a national survey conducted in 2017, 34% of “households with children aged 3-18 and no internet cite affordability as the major reason for no connection.”<sup>18</sup>

Before the pandemic, the digital divide exhibited its largest impact in what is sometimes referred to as the “homework gap.”<sup>19</sup> The digital divide hindered students’ ability to complete their homework and also limited their ability to “fully participate in remote instruction or keep up with coursework at the same rates as their technologically advanced peers.”<sup>20</sup> During the pandemic, all students made the difficult transition to remote learning, but those disadvantaged by the digital divide faced tremendous difficulty relative to students with adequate internet and device access. As a result, low-income students face significantly more hurdles to completing their education, while privileged students have access to better devices and will likely do better long-term and through post-secondary education.<sup>21</sup>

With 29.7% of K-12 students without full internet access, Missouri ranked 41st out of 50 states for the percentage of students without full technology access prior to COVID-19.<sup>22</sup> In a survey of school leaders in May 2020—some two months after most Missouri schools ceased in-person classes—the Missouri Department of Elementary and Secondary Education (“DESE”) found that an estimated 23% of Missouri students lacked adequate internet access for remote learning.<sup>23</sup> A more robust 2020 study found that 333,212 students in Missouri lacked adequate high-speed internet connection (36%), and 224,772 students in Missouri lacked access to adequate technology devices (25%).<sup>24</sup> Students without access to the internet and a device are more likely to be Black and more likely to be in low-income households.<sup>25</sup>

As Missouri school districts have scrambled to address the digital divide in students’ homes, they have actually compounded the vulnerabilities of their students in some situations by levying fees and fines for necessary technology. Our investigation indicates that the students most

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[https://www.commonsemmedia.org/sites/default/files/uploads/pdfs/common\\_sense\\_media\\_report\\_final\\_6\\_26\\_7.38am\\_web\\_updated.pdf](https://www.commonsemmedia.org/sites/default/files/uploads/pdfs/common_sense_media_report_final_6_26_7.38am_web_updated.pdf).

<sup>14</sup> *Id.* Nationally, 18% of white households lacked adequate home internet access compared to 26% of Latinx households, 30% of Black households, and 35% of Native American households. *Id.*

<sup>15</sup> *Understanding the Digital Divide in Education*, *supra* note 4.

<sup>16</sup> *Understanding the Digital Divide in Education*, *supra* note 4.

<sup>17</sup> Chandra, *supra* note 13, at 9.

<sup>18</sup> Chandra, *supra* note 13, at 9.

<sup>19</sup> Chandra, *supra* note 13, at 6.

<sup>20</sup> Shelton, *supra* note 7, at 2.

<sup>21</sup> *Understanding the Digital Divide in Education*, *supra* note 4.

<sup>22</sup> Shelton, *supra* note 7, at 2. Moreover, one quarter of households in urban and rural Missouri districts lacked internet access, compared to one of ten suburban households. *Id.*

<sup>23</sup> See Elle Moxley, *Poor Internet Access Keeps 36% Of Missouri Students From Learning at Home, Report Shows*, ST. LOUIS PUBLIC RADIO (July 4, 2020), <https://news.stlpublicradio.org/education/2020-07-04/poor-internet-access-keeps-36-of-missouri-students-from-learning-at-home-report-shows>.

<sup>24</sup> Chandra, *supra* note 13, at 30.

<sup>25</sup> Chandra, *supra* note 13, at 6.

affected by these technology fees—and the barriers they create—are those who are also most harmed by the underlying digital divide.

### C. *Snapshots of Pandemic Education Across Missouri*

As education advocates working with parents, students, and community partners during the COVID-19 pandemic, we have seen how the pandemic has exacerbated existing inequities in the education system. Inequitable technology access is just one of these gaps, and the effect of this inequitable access requires an understanding of Missouri students' lived experience during the pandemic. While an analysis of every way the pandemic has impacted student learning is outside the scope of this white paper, we highlight here some of the intersecting issues that compound the digital divide.

- 1. Trauma and mental health struggles.** The pandemic has brought on grief, loss, and increased stress for almost every American.<sup>26</sup> As many area schools have acknowledged, students have gone through unprecedented trauma and stress in the last two years.<sup>27</sup> This new trauma has exacerbated students' existing traumas from poverty, racism, violence, and housing instability and homelessness.<sup>28</sup> Students have lost relatives and/or caregivers,<sup>29</sup> faced family economic instability, and suffered social isolation and developmental dysregulation. Furthermore, the pandemic has worsened racism and violence generally, as well as political division and tension in school communities.<sup>30</sup> Trauma impacts students' school attendance, which is especially pernicious because

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<sup>26</sup> For resources on navigating trauma generally, including returning to school amid trauma and navigating grief, *see, e.g., Back to School During COVID-19*, Substance Abuse and Mental Health Services Administration, <https://www.samhsa.gov/coronavirus/back-to-school> (last updated Nov. 8, 2021).

<sup>27</sup> *See* Blythe Bernhard, *School Districts Across St. Louis Add Extra Days Off This Month for Mental Health*, ST. LOUIS POST-DISPATCH (Nov. 16, 2021), [https://www.stltoday.com/news/local/education/school-districts-across-st-louis-add-extra-days-off-this-month-for-mental-health/article\\_a8c6dad9-9992-5451-bb76-af0d028e6110.html](https://www.stltoday.com/news/local/education/school-districts-across-st-louis-add-extra-days-off-this-month-for-mental-health/article_a8c6dad9-9992-5451-bb76-af0d028e6110.html).

<sup>28</sup> *See, e.g.,* Sarah D. Sparks, *Triaging for Trauma During COVID-19*, EDUC. WEEK (Sept. 2, 2020), <https://www.edweek.org/leadership/triaging-for-trauma-during-covid-19/2020/09>; Emma Dorn et al., *COVID-19 and Education: The Lingering Effects of Unfinished Learning*, MCKINSEY & CO. (July 27, 2021), <https://www.mckinsey.com/industries/education/our-insights/covid-19-and-education-the-lingering-effects-of-unfinished-learning>; *Education in a Pandemic: The Disparate Impacts of COVID-19 on America's Students*, U.S. DEP'T OF EDUC. OFF. FOR CIV. RIGHTS 11-12 (June 9, 2021), <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf> (laying out disparities in impacts for families of color).

<sup>29</sup> As of January 26, 2022, the Missouri Department of Health and Senior Services has determined that there have been 13,902 confirmed COVID-19 deaths in the state. *COVID-19 in Missouri*, MO. DEP'T OF HEALTH & SENIOR SERVS., <https://health.mo.gov/living/healthconditions/communicable/novel-coronavirus/data/public-health/statewide.php> (last updated Jan. 25, 2022). Nationally, in the most recent estimate, at least 167,000 children have lost caregivers to COVID-19. Dan Treglia et al., *Hidden Pain: Children Who Lost a Parent or Caregiver to COVID-19 and What the Nation Can Do to Help Them*, SOCIAL POLICY ANALYTICS AND COVID COLLABORATIVE 4 (Dec. 2021), <https://www.nytimes.com/2021/12/09/us/politics/children-lost-parents-caregivers-covid-grief.html>. Black and Latinx children are about two and a half times more likely than white children to have lost a caregiver to COVID-19, and indigenous children are about four times more likely to have lost a caregiver. *Id.* at 7.

<sup>30</sup> *See, e.g.,* Sparks, *supra* note 27; Dorn et al., *supra* note 27.

schools can be hubs for mental health identification and treatment; trauma and low attendance each impact academic achievement.<sup>31</sup>

- 2. Lack of stability in school schedules and modes of education delivery.** In the 2020-2021 school year, students had no certainty about school re-openings, and then faced re-closures and quarantines when schools did re-open.<sup>32</sup> Area schools opted for different modes of instruction: some schools began virtually, and then transitioned to hybrid modes of instruction; others used a combination of virtual and in-person instruction from the start; still others were fully in-person; and some schools alternated between various methods at various times.<sup>33</sup> With the modes of education, classroom links, and schedules all changing, students missed classes, felt fatigued, and became disengaged.<sup>34</sup> While many schools in the St. Louis region and in Missouri re-opened for the 2021-2022 school year fully in-person, the mode of education delivery quickly de-stabilized for many students. Students went in and out of quarantines, affecting both their classroom experience and extracurricular activities.<sup>35</sup> In St. Louis County, at least 1,318 students and school staff had to quarantine during the first week of school alone.<sup>36</sup> Students continue to churn between in person and virtual instruction, by necessity or by choice,<sup>37</sup> especially as new variants emerge that further strain district resources.<sup>38</sup>
- 3. Lack of high-quality virtual instruction.** Most districts were unprepared to provide high-quality virtual instruction at the start of the pandemic. According to the National Standards for Quality Online Teaching, indicators of effective and sustainable virtual education include digital teaching methods, community building, learner engagement, teaching about responsible use of technology, instruction in diverse methods and

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<sup>31</sup> Satu Larson, et al., *Chronic Childhood Trauma, Mental Health, Academic Achievement, and School-Based Health Center Mental Health Services*, 87 J. of School Health 675, 676 (Sept. 2017), <https://escholarship.org/content/qt6th2r852/qt6th2r852.pdf?t=oupznn>.

<sup>32</sup> Blythe Bernhard, *It's Back to Classes—Online or In-Person—As Plans for Spring Semester Develop*, ST. LOUIS POST-DISPATCH (Jan. 4, 2021), [https://www.stltoday.com/news/local/education/its-back-to-classes-online-or-in-person-as-plans-for-spring-semester-develop/article\\_3d4901a4-3671-5b82-8a3b-9b782c76fdee.html](https://www.stltoday.com/news/local/education/its-back-to-classes-online-or-in-person-as-plans-for-spring-semester-develop/article_3d4901a4-3671-5b82-8a3b-9b782c76fdee.html).

<sup>33</sup> See Blythe Bernhard, *All-Virtual Hazelwood School District Sets Date for Some Students' Return to Buildings*, ST. LOUIS POST-DISPATCH (Jan. 22, 2021), [https://www.stltoday.com/all-virtual-hazelwood-school-district-sets-date-for-some-students-return-to-buildings/article\\_f7d3bf3d-6e0d-593c-afd0-2e56475c05fb.html](https://www.stltoday.com/all-virtual-hazelwood-school-district-sets-date-for-some-students-return-to-buildings/article_f7d3bf3d-6e0d-593c-afd0-2e56475c05fb.html).

<sup>34</sup> Dorn et al., *supra* note 27.

<sup>35</sup> Blythe Bernhard, *Quarantines Cancel High School Football Game, Keep Hundreds of Students Home Across St. Louis Region*, ST. LOUIS POST-DISPATCH (Sept. 2, 2021), [https://www.stltoday.com/news/local/metro/quarantines-cancel-high-school-football-game-keep-hundreds-of-students-home-across-st-louis-region/article\\_cce91a95-4977-502f-a274-58d953e4e823.html](https://www.stltoday.com/news/local/metro/quarantines-cancel-high-school-football-game-keep-hundreds-of-students-home-across-st-louis-region/article_cce91a95-4977-502f-a274-58d953e4e823.html); Jim Salter, *Thousands Get COVID in First Weeks of School in Missouri*, AP NEWS (Sept. 8, 2021), <https://apnews.com/article/health-education-coronavirus-pandemic-st-louis-kansas-city-d4a07306f3df7eafedc359b32d7b4878>.

<sup>36</sup> Tessa Weinberg, *Missouri Makes Schools Prioritize In-Person Classes. Thousands Were Quarantined in First Weeks Back*, KCUR (Sept. 13, 2021), <https://www.kcur.org/education/2021-09-13/missouri-makes-schools-prioritize-in-person-classes-thousands-were-quarantined-in-first-weeks-back>.

<sup>37</sup> Blythe Bernhard, *Virtual Learning, First a Crisis Response to the Pandemic, Is in St. Louis to Stay*, ST. LOUIS POST-DISPATCH (Mar. 18, 2021), [https://www.stltoday.com/news/local/education/virtual-learning-first-a-crisis-response-to-the-pandemic-is-in-st-louis-to-stay/article\\_5e65f887-33de-50e5-a418-7fef2426d18.html](https://www.stltoday.com/news/local/education/virtual-learning-first-a-crisis-response-to-the-pandemic-is-in-st-louis-to-stay/article_5e65f887-33de-50e5-a418-7fef2426d18.html).

<sup>38</sup> See Rudi Keller, *Missouri Hits New Monthly Record for COVID Cases as Omicron Variant Spreads*, MO. INDEPENDENT (Jan. 13, 2022), <https://missouriindependent.com/2022/01/13/missouri-hits-new-monthly-record-for-covid-cases-as-omicron-variant-spreads/>.

platforms, assessment and measurement tools, and intentional instructional design.<sup>39</sup> Many district plans in the spring of 2020 and even into the 2020-2021 and 2021-2022 school years lacked these quality indicators, sometimes relying exclusively on self-driven (asynchronous) models without live instruction.<sup>40</sup>

4. **Childcare, supervision, and space challenges.** School districts, education experts, and families recognized that childcare would be an issue for families when schools initially closed.<sup>41</sup> Childcare remains an issue during virtual and hybrid instruction.<sup>42</sup> Caregivers who were able to work from home had to balance simultaneously working their paying jobs while teaching or supervising their children. Caregivers who could not work from home—including essential workers—required childcare, which is always difficult to find and to afford. These difficulties increased during the pandemic.<sup>43</sup> We may have permanently lost up to 4.5 million spots for children in childcare nationally due to shuttered centers and reduced capacity resulting from revenue loss, mandated social distancing, and staff shortages.<sup>44</sup> In Missouri, nearly half of pre-pandemic childcare could be lost.<sup>45</sup>
  
5. **Lack of technological literacy and training for parents and students.** Many students need caregiver support to get online.<sup>46</sup> Too often caregivers themselves don't know how to join virtual classes.<sup>47</sup> This challenge exists for many reasons, including that many adults lack technological literacy, families find changing class links hard to manage, electronic instructions for English language learners are inaccessible, and caregivers and students with disabilities are not accommodated. Moreover, increased electronic communication to parents by school staff overwhelms some families.<sup>48</sup>

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<sup>39</sup> *National Standards for Quality Online Teaching*, National Standards for Quality, <https://www.nsqol.org/the-standards/quality-online-teaching/> (last updated 2022).

<sup>40</sup> Lack of teacher training on virtual pedagogies, the need to accommodate family schedules, and—very importantly—the digital divide in technology access have all impacted districts' abilities to deliver seamless synchronous instruction.

<sup>41</sup> Madeline Will, *Providing Child Care During Coronavirus School Closures a Tough Question*, EDUC. WEEK (Mar. 17, 2020), <https://www.edweek.org/leadership/providing-child-care-during-coronavirus-school-closures-a-tough-question/2020/03>.

<sup>42</sup> See Misty L. Heggeness and Jason M. Fields, *Parents Juggle Work and Child Care During Pandemic*, U.S. CENSUS BUREAU (Aug. 18, 2020), <https://www.census.gov/library/stories/2020/08/parents-juggle-work-and-child-care-during-pandemic.html>.

<sup>43</sup> Alicia Sasser Modestino et al., *Childcare Is a Business Issue*, HARV. BUS. REV. (Apr. 29, 2021), <https://hbr.org/2021/04/childcare-is-a-business-issue>.

<sup>44</sup> Lucy Danley, *New Analysis: COVID-19 Crisis Could Lead to Permanent Loss of Nearly 4.5 Million Child Care Slots Nationwide*, FIRST FIVE YEARS FUND (Apr. 29, 2020), <https://www.ffyf.org/new-analysis-covid-19-crisis-could-lead-to-permanent-loss-of-nearly-4-5-million-child-care-slots-nationwide/>.

<sup>45</sup> Danley, *supra* note 43.

<sup>46</sup> See Alec MacGillis, *The Students Left Behind by Remote Learning*, PROPUBLICA (Sept. 28, 2020), <https://www.propublica.org/article/the-students-left-behind-by-remote-learning>.

<sup>47</sup> MacGillis, *supra* note 45; Alyson Klein, *One More Thing for Educators to Do: Teach Parents About Proper Use of Technology*, EDUC. WEEK (June 23, 2019), <https://www.edweek.org/leadership/one-more-thing-for-educators-to-do-teach-parents-about-proper-use-of-technology/2019/06>.

<sup>48</sup> MacGillis, *supra* note 45.

6. **Lack of support for students with disabilities.** Federal law guarantees students with disabilities a free appropriate public education,<sup>49</sup> a right that is unaltered by the COVID-19 pandemic.<sup>50</sup> Students with disabilities sometimes need individualized support. In-person support could not be provided when schools were virtual, and often when support was offered, it did not match students’ needs.<sup>51</sup> Disruptions in services and education for students with disabilities have continued into the 2021-2022 school year.<sup>52</sup>
  
7. **Under-identification of students experiencing homelessness.** Schools are a key resource for students experiencing homeless,<sup>53</sup> and they are required by federal law to actively work to identify these students.<sup>54</sup> Although homelessness has increased during the pandemic, in fall 2020, schools identified 420,000 fewer students experiencing homelessness than they had the prior year.<sup>55</sup> This number likely underestimates the failures to identify students experiencing homelessness.<sup>56</sup> This failure to identify students experiencing homelessness means that these students go without the resources that they need to be safe and to stay in school.<sup>57</sup>
  
8. **Exclusionary discipline.** When students are removed from the regular classroom for disciplinary reasons, they miss out on important learning and are pushed into the school-to-prison pipeline. Traditionally, suspensions, expulsions, and administrative transfers to alternative programs have been the most common ways that districts have excluded students in this way. Students have “due process” rights under federal and state law when they are formally suspended or expelled, meaning they are entitled to notice of the action and an opportunity to be heard.<sup>58</sup> In addition, Missouri law requires that students receive

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<sup>49</sup> 34 C.F.R. § 300.101. <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf> at 22

<sup>50</sup> *Education in a Pandemic*, *supra* note 27, at 22; *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak*, U.S. DEP’T OF EDUC. OFF. FOR CIV. RIGHTS 2 (Mar. 2020), <https://www.isbe.net/Documents/qa-covid-19-03-12-2020.pdf> (“If [a school district] continues to provide educational opportunities to the general student population during a school closure, the school must ensure that students with disabilities also have equal access to the same opportunities, including the provision of FAPE.”)

<sup>51</sup> Cory Turner and Rebecca Klein, *After Months of Special Education Turmoil, Families Say Schools Owe Them*, NAT’L PUB. RADIO (June 16, 2021), <https://www.npr.org/2021/06/16/994587239/after-months-of-special-education-turmoil-families-say-schools-owe-them>; *Education in a Pandemic*, *supra* note 27, at 25-26.

<sup>52</sup> *Education in a Pandemic*, *supra* note 27, at 25-26.

<sup>53</sup> Nadia Tamez-Robledo, *Schools Are a Lifeline for Homeless Students. COVID-19 Is Severing the Connection*, EDSURGE (Jan. 11, 2021), <https://www.edsurge.com/news/2021-01-11-schools-are-a-lifeline-for-homeless-students-covid-19-is-severing-the-connection>.

<sup>54</sup> See McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq. Protections for students experiencing homelessness include the right to immediate enrollment, even without documents normally required, and the right to transportation to school.

<sup>55</sup> *Lost in the Masked Shuffle & Virtual Void: Children and Youth Experiencing Homelessness Amidst the Pandemic*, SCHOOLHOUSE CONNECTION 6 (Nov. 19, 2020), <https://schoolhouseconnection.org/lost-in-the-masked-shuffle-and-virtual-void/>.

<sup>56</sup> Sarah D. Sparks, *More Than 1 in 4 Homeless Students Dropped Off Schools’ Radar During the Pandemic*, EDUC. WEEK (Nov. 25, 2020), <https://www.edweek.org/leadership/more-than-1-in-4-homeless-students-dropped-off-schools-radar-during-the-pandemic/2020/12>; *Lost in the Masked Shuffle & Virtual Void*, *supra* note 54, at 6.

<sup>57</sup> *Lost in the Masked Shuffle & Virtual Void*, *supra* note 54, at 5; Sparks, *supra* note 55; Tamez-Robledo, *supra* note 52.

<sup>58</sup> MO. REV. STAT. § 167.171.1.

an education even when they are suspended or expelled.<sup>59</sup> During the pandemic, exclusionary discipline has persisted but taken on new forms. Students have been locked out of virtual instruction as informal punishment for behavior in class. Others have been forbidden from learning in-person due to alleged infractions, despite that option being available to other students (an informal disciplinary process known as “virtualization”).<sup>60</sup> These new forms of discipline are often at the sole discretion of one school employee and lack formal notice and an opportunity to be heard, jeopardizing students’ educational stability and compounding the isolating experience of the pandemic.

- 9. Staff shortages.** Staffing vacancies affect the services that students receive, their ability to get to school, the stability and quality of their education, and the relationships students can form with their school.<sup>61</sup> In the St. Louis region and nationally, the pandemic has intensified already existing shortages in every school position,<sup>62</sup> and it is not clear when these shortages will end, especially as new variants of COVID-19 increase staff absences.<sup>63</sup> Many families and students rely on school-provided transportation, but because of staff shortages, buses and cabs sometimes do not show up on time or at all.<sup>64</sup> Teacher shortages—due to higher workloads, burnout, and illness—create even higher workloads for the remaining teachers, which contributes to a vicious cycle of attrition.<sup>65</sup> The pre-pandemic substitute teaching shortage has also magnified.<sup>66</sup> Students are now in bigger classrooms or are missing out on learning altogether.<sup>67</sup>

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<sup>59</sup> Tracy Hinds, *LS-20-004: Guidance on the Long-Term Suspension of Students from the Regular School Setting* (Aug. 19, 2021), <https://dese.mo.gov/guidance-long-term-suspension-students-regular-school-setting>; MO. REV. STAT. § 167.164.

<sup>60</sup> See e.g., Erin Einhorn, *Schools Are Sending Kids to Virtual Classes as Punishment. Advocates Say That Could Violate Their Rights*, NBC NEWS (May 4, 2021, 3:31 AM), <https://www.nbcnews.com/news/education/schools-are-sending-kids-virtual-classes-punishment-advocates-say-could-n1266152>.

<sup>61</sup> See Miguel A. Cardona, *Dear Colleague Letter*, U.S. DEP’T OF EDUC. 1 (Dec. 16, 2021), [https://oese.ed.gov/files/2021/12/21-0414.DCL\\_Labor-Shortages.pdf](https://oese.ed.gov/files/2021/12/21-0414.DCL_Labor-Shortages.pdf).

<sup>62</sup> *Id.*; Marissanne Lewis-Thompson, *St. Louis Area Schools Face Uphill Battle with Ongoing Staffing and Supply Shortages*, ST. LOUIS PUB. RADIO (Sept. 20, 2021), <https://news.stlpublicradio.org/education/2021-09-20/st-louis-schools-ongoing-teacher-staffing-supply-shortage>; Cresencio Rodriguez-Delgado et al., *Schools Across the Country Are Struggling to Find Staff. Here’s Why*, PBS NEWS HOUR (Nov. 23, 2021), <https://www.pbs.org/newshour/education/schools-across-the-country-are-struggling-to-find-staff-heres-why>.

<sup>63</sup> Mark Lieberman, *The School Staffing Crisis Won’t End Any Time Soon*, EDUC. WEEK (Dec. 9, 2021), [https://www.edweek.org/leadership/the-school-staffing-crisis-wont-end-any-time-soon/2021/12?utm\\_source=nl&utm\\_medium=eml&utm\\_campaign=eu&M=64240665&U=&UID=f8d48695e3e7b5db0a9205847655f897](https://www.edweek.org/leadership/the-school-staffing-crisis-wont-end-any-time-soon/2021/12?utm_source=nl&utm_medium=eml&utm_campaign=eu&M=64240665&U=&UID=f8d48695e3e7b5db0a9205847655f897); Alan Greenblatt, *With Omicron, Schools Are Literally Running Out of Teachers*, GOVERNING (Jan. 20, 2022), <https://www.governing.com/now/with-omicron-schools-are-literally-running-out-of-teachers>.

<sup>64</sup> See Blythe Bernhard, *Missouri School Districts Struggle to Keep Classrooms Open During COVID-19 Surge*, ST. LOUIS POST-DISPATCH (Jan. 6, 2022), [https://www.stltoday.com/news/local/education/missouri-school-districts-struggle-to-keep-classrooms-open-during-covid-19-surge/article\\_a7e030ee-b543-5775-ba2e-72cd70c75239.html](https://www.stltoday.com/news/local/education/missouri-school-districts-struggle-to-keep-classrooms-open-during-covid-19-surge/article_a7e030ee-b543-5775-ba2e-72cd70c75239.html).

<sup>65</sup> See Scott Simon, *Teachers Are Asking for Extra Holidays and Mental Health Resources to Fight Burnout*, NAT’L PUB. RADIO (Nov. 13, 2021, 8:02AM EST), <https://www.npr.org/2021/11/13/1055503597/teachers-are-asking-for-extra-holidays-and-mental-health-resources-to-fight-burn>; Madeline Will, *The Already Dire Substitute Shortage Could Get “Worse Before It Gets Better.”* EDUC. WEEK (Oct. 13, 2021), <https://www.edweek.org/leadership/the-already-dire-substitute-shortage-could-get-worse-before-it-gets-better/2021/10#:~:text=A%20nationally%20representative%20survey%20%2C%20conducted,than%20any%20othe%20staffing%20position.>

<sup>66</sup> Will, *supra* note 64.

<sup>67</sup> Will, *supra* note 64.

## II. EDUCATION JUSTICE PROGRAM INVESTIGATION: WHY AND HOW WE LOOKED INTO THE DISPROPORTIONATE IMPACTS OF TECHNOLOGY FEES DURING THE PANDEMIC

### A. Purpose: Why This Issue

The pandemic has saddled school districts with a host of novel challenges, forcing them to make tough decisions about public health, school safety, student learning, and social supports. Educators and administrators deserve respect for navigating the concurrent crises of the pandemic and its economic fallout. Yet, students and their families suffer from district- and school-level decisions that fail to deliver quality education for all. The children who have suffered most during the pandemic are the ones who were already marginalized by society. In the midst of dealing with so many new questions and concerns, most school districts have avoided taking the steps necessary to make technology access truly equitable. As one parent told us:

Districts could take an easy win in the middle of so many difficulties by waiving tech fines and absorbing the cost of insuring every device. But it's like they don't see how make-or-break this could be for students' education, not just in the short term but for lifetime outcomes. They are choosing to deny equal access to education. They could make a different choice.

In responding to needs identified by our client communities, our investigation aimed to unearth a greater understanding of patterns, practices, and policies related to technology fees and fines, laid out in Section III *infra*, so that we could offer legal considerations (see Section IV *infra*) and identify opportunities for more equitable technology access (see Section V *infra*). In addition to noting when districts have created barriers to education access, we have highlighted when districts are engaging in best practices.

### B. Methodology: How We Gathered Information

Since the pandemic began, EJP and its community partners have heard from families across Missouri about the ways technology fees and fines have created barriers to education access. Parents and students have shared their stories through referrals from healthcare providers and social service agencies, calls to the EJP hotline, and responses to the Technology Access Survey conducted in August 2021 both online and via hard copy at several outreach events in the St. Louis region. Our findings in Section III are thus in large part a documentation of the experiences of our clients and other individuals with whom EJP has interacted.

In addition to gathering stories directly from families, EJP gathered information about district policies and practices by making requests to eight Missouri school districts under the Missouri Sunshine Law and to one in Illinois under the Illinois Freedom of Information Act for regional comparison.<sup>68</sup> In our requests, we asked for documents in a variety of categories, including those that related to fees and fines for students for district-provided technology devices

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<sup>68</sup> In selecting districts, we attempted to take a broad sampling of those in our service area. We recognize that this is not an exhaustive survey of Missouri schools and that any apparent trends are not statistically conclusive but rather illustrative of our hypotheses regarding inter- and intra-district disparities.

and those that indicate demographic information for students being charged such fees and fines. An overview of each of these nine districts is below.

1. **KIPP: St. Louis** is a public charter school system serving 1,756 students in the City of St. Louis as of the 2017-18 school year.<sup>69</sup> The student population is 98.6% Black, 0.7% Hispanic or Latinx, 0.5% white, and 0.1% Asian.<sup>70</sup> Of KIPP's student population, 11.3% have Individualized Education Programs ("IEPs") and 0.2% are English learners.<sup>71</sup> DESE reports that 2.7% of KIPP students were experiencing homelessness in the 2017-18 school year.<sup>72</sup> According to DESE, 100% of KIPP students received free or reduced-price lunch in October 2019.<sup>73</sup>
2. **Ritenour School District** is located in the northern suburban part of St. Louis County and is not a participant in the Voluntary Interdistrict Choice Corporation ("VICC") program.<sup>74</sup> Of its 6,502 students enrolled in 2017, 41.7% were Black, 30% were white, 18.9% were Hispanic or Latinx, 1.7% were Asian, and 7.7% identified as some other race/ethnicity.<sup>75</sup> Ritenour has 1,177 students (16.4% of its total) with IEPs, who receive services through Special School District, and 14.9% of Ritenour's students are English learners.<sup>76</sup> About 73.6% of Ritenour students receive free or reduced-price lunch in October 2019,<sup>77</sup> and approximately 4% were experiencing homelessness in the 2017-18 school year.<sup>78</sup>
3. **Riverview Gardens School District** is a public school district in North St. Louis County and is not a participant in the VICC program.<sup>79</sup> Of the 5,262 students enrolled in 2017, 5.9% of students were experiencing homelessness.<sup>80</sup> Riverview Gardens' student population that year was 98.3% Black, 0.7% white, 0.5% Hispanic or Latinx, and 1% Asian.<sup>81</sup> In addition, 13.1% of students were students with disabilities receiving services through Special School District, 7.4% were English learners,<sup>82</sup> and nearly 6% were experiencing homelessness.<sup>83</sup> In October 2019, 100% of Riverview Gardens students received free and reduced-price lunch.<sup>84</sup>

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<sup>69</sup> *KIPP St. Louis Public Schools LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/54035/summary>.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Homeless District Results SY 2013-2014 through SY 2018-2019*, MO. DEP'T OF ELEM. & SECOND. EDUC. (Dec. 15, 2020), <https://dese.mo.gov/media/pdf/district-data-results-2018-2019>.

<sup>73</sup> *October 2019 Free & Reduced Enrollment with CEP Claiming Percentages*, MO. DEP'T OF ELEM. & SECOND. EDUC. (Oct. 2019), <https://dese.mo.gov/media/pdf/october-2019-free-reduced-enrollment-cep-claiming-percentages> [hereafter *Free & Reduced Enrollment*].

<sup>74</sup> *The State of Integration in St. Louis*, VOLUNTARY INTERDISTRICT CHOICE CORP., <https://www.choicecorp.org/> (last accessed Jan. 27, 2022). This desegregation program, created by a court-ordered settlement agreement in 1981, allows Black residents of the City of St. Louis to attend school in participating St. Louis County districts. It also allows white St. Louis County residents to attend magnet schools in the City of St. Louis. *Id.*

<sup>75</sup> *Ritenour LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28001/summary>.

<sup>76</sup> *Id.*

<sup>77</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>78</sup> *Homeless District Results*, *supra* note 71.

<sup>79</sup> *The State of Integration in St. Louis*, *supra* note 73.

<sup>80</sup> *Homeless District Results*, *supra* note 71.

<sup>81</sup> *Riverview Gardens LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28002/summary>.

<sup>82</sup> *Id.*

<sup>83</sup> *Homeless District Results*, *supra* note 71.

<sup>84</sup> *Free & Reduced Enrollment*, *supra* note 72.

4. **Rockwood School District** is located in the southern suburban part of St. Louis County and covers a large geographic area, enrolling 21,705 students total as of 2017-18,<sup>85</sup> including about 1,400 St. Louis City residents through the VICC Program.<sup>86</sup> Rockwood's student population is 76.5% white, 8.5% Black, 3.5% Hispanic or Latinx, 8.3% Asian, and 3.2% reporting as some other race.<sup>87</sup> Students with IEPs, served by Special School District, make up 14.6% of Rockwood's students.<sup>88</sup> Only 1.2% of Rockwood students were experiencing homelessness in the 2017-18 school year,<sup>89</sup> and 12.7% qualified for free and reduced-price lunch in October 2019.<sup>90</sup>
  
5. **St. Louis Public Schools** is a participant in the VICC program.<sup>91</sup> In 2017, there were 22,672 students in the St. Louis Public Schools, and of those students, 79.5% were Black, 13.2% were white, 4.4% were Hispanic or Latinx, 2.6% were Asian, and 0.2% were American Indian/Alaska Native students.<sup>92</sup> Nearly a quarter, 23.5%, were students experiencing homelessness.<sup>93</sup> Moreover, 13.2% had IEPs receiving services through St. Louis Public Schools,<sup>94</sup> and 10.6% were English learners.<sup>95</sup> In St. Louis Public Schools, 100% of students were eligible for free and reduced-price lunch in October 2019.<sup>96</sup> Although we began requesting data on fees for technology in April 2021, as of publication, St. Louis Public Schools has still not responded to our Sunshine requests. The ACLU of Missouri has filed a lawsuit against St. Louis Public Schools on our behalf under the Sunshine law. The case is currently pending.<sup>97</sup>
  
6. **Union School District** serves a total of 3,094 students as of 2017-18; 92.9% of the student population is white, 1.1% is Black, 2.1% is Hispanic or Latinx, 0.5% is Asian, and 0.2% is American Indian/Alaska Native.<sup>98</sup> In that same year, students with IEPs (served within the district) made up 11.8% of the student population, 1.8% of Union students were English learners,<sup>99</sup> and 2.3% were experiencing homelessness.<sup>100</sup> As of October 2019, 44.3% of students in the district received free and reduced-price lunch.<sup>101</sup>
  
7. **University City School District** is a small, majority-Black district in the inner-ring suburbs of St. Louis County, serving a total of 2,822 students in 2017-18, when the student population was 80.9% Black, 10.9% white, 3.5% Hispanic or Latinx, 1.3% Asian, and 0.1% American

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<sup>85</sup> *Rockwood LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28004/summary>.

<sup>86</sup> *Voluntary Student Transfer Program*, ROCKWOOD SCH. DIST. (2021), <https://www.rsdmo.org/Page/4972>.

<sup>87</sup> *Rockwood LEA Summary of Selected Facts*, *supra* note 83.

<sup>88</sup> *Rockwood LEA Summary of Selected Facts*, *supra* note 83.

<sup>89</sup> *Homeless District Results*, *supra* note 71.

<sup>90</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>91</sup> *The State of Integration in St. Louis*, *supra* note 73.

<sup>92</sup> *St. Louis Public Schools LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28024/summary>.

<sup>93</sup> *Homeless District Results*, *supra* note 71.

<sup>94</sup> *St. Louis Public Schools LEA Summary of Selected Facts*, *supra* note 91.

<sup>95</sup> *St. Louis Public Schools LEA Summary of Selected Facts*, *supra* note 91.

<sup>96</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>97</sup> Legal Servs. of E. Mo. et al. v. St. Louis Pub. Schs., No. 2222-CC00177 (Mo. 22d Cir. filed Jan. 31, 2022).

<sup>98</sup> *Union R-XI LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28035/summary>.

<sup>99</sup> *Id.*

<sup>100</sup> *Homeless District Results*, *supra* note 71.

<sup>101</sup> *Free & Reduced Enrollment*, *supra* note 72.

Indian/Alaska Native.<sup>102</sup> The same year, 15.3% of students qualified for IEPs, receiving services through Special School District, and 2.6% were English learners.<sup>103</sup> In 2017-18, 7.2% of its students were experiencing homelessness.<sup>104</sup> In addition, 84.87% of students were eligible for free and reduced-price lunch in October 2019.<sup>105</sup>

8. **Webster Groves**, located in the inner-ring suburbs of St. Louis County, is a participant in the VICC program. Its student body—77.4% white, 13% Black, 3.4% Hispanic or Latinx, 1.7% Asian, and 4.5% identifying as some other race—is relatively small, at 4,697 students total in 2017-18.<sup>106</sup> The district serves students with IEPs in partnership with Special School District, 17.5% of its total population.<sup>107</sup> Less than 1% of Webster Groves’ students were experiencing homelessness in 2017-18,<sup>108</sup> and 14.5% were receiving free and reduced-price lunch in 2019.<sup>109</sup>
9. **East St. Louis School District**, across the Mississippi River from St. Louis in the Illinois Metro East, has 5,601 students.<sup>110</sup> In 2017-2018, the student population was 97.4% Black, 1.3% Latinx, 7% White, and 0.1% American Indian/Alaska Native; 12.7% of students qualified for services under the IDEA, 0.8% of students were English learners,<sup>111</sup> and over 8% were experiencing homelessness.<sup>112</sup> All students in East St. Louis were eligible for free and reduced-price lunch in 2019.<sup>113</sup>

### III. EDUCATION JUSTICE PROGRAM INVESTIGATION: FINDINGS AND ANALYSIS

#### A. Deposit Requirements

During the initial school closures in spring 2020, the magnitude of the digital divide became apparent, and many districts scrambled to provide one-to-one technology for all students. But some districts required families to first pay a deposit or initial technology fee. Union R-XI School District, in rural Missouri, required a \$20 Chromebook usage fee to be paid prior to a student receiving a device. In Normandy Schools Collaborative, where 100% of students qualify

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<sup>102</sup> *University City LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28037/summary>.

<sup>103</sup> *Id.*

<sup>104</sup> *Homeless District Results*, *supra* note 71.

<sup>105</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>106</sup> *Webster Groves LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/28046/summary>.

<sup>107</sup> *Id.*

<sup>108</sup> *Homeless District Results*, *supra* note 71.

<sup>109</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>110</sup> *East St. Louis LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/32937/summary>. Although this white paper focuses on Missouri education systems, we decided to include a school district in Illinois near our service area in the St. Louis metro region for comparison.

<sup>111</sup> *Id.*

<sup>112</sup> SY 2017-18 Homeless Students Enrolled, EDFACTS DATA FILES, U.S. DEP’T OF EDUC. (2017-18), <https://www2.ed.gov/about/inits/ed/edfacts/data-files/school-status-data.html>.

<sup>113</sup> *Child Nutrition Data Analytics and Mapping Tools*, Ill. State Bd. Of Educ., <https://www.isbe.net/Pages/Nutrition-Data-Analytics-Maps.aspx> (last accessed Jan. 27, 2022).

for free or reduced-price lunches<sup>114</sup> and 96.3% of students are Black,<sup>115</sup> families could only receive a district Chromebook if they paid a \$25 deposit. Many families could not afford this fee. Facing a lack of district-provided technology, one student’s mother entered into a predatory “rent to own” agreement for a computer. This fee meant some students had no technology access for the initial weeks and months of the pandemic. They were unable to log onto virtual learning with their classmates, unable to receive instruction from their teachers, and unable to access some sense of normalcy and routine during a time of intense uncertainty.

After advocacy from EJP, Normandy removed its initial deposit requirement and provided compensatory services for EJP clients who were denied access to education as a result of these unlawful fees.

### *B. Fines for Lost, Stolen, and Damaged Devices*

Technology fees in many districts into the 2020-2021 school year and the 2021-2022 school year. Often, they have come in the form of fines for lost, stolen, and damaged devices. While districts may attempt to rationalize shifting the burden of necessary technology onto families by using language like “destruction of school property” and “negligence” and “accountability,” the effect has been the denial of equal education access to students who cannot afford to pay for replacement devices.

For example, St. Louis Public Schools refused to provide a replacement device throughout the 2020-2021 school year to a family who left an iPad at school the very day they picked it up. Despite the fact that the student never even used the device and assurances that the family would not be held liable, the district charged a \$320 fine and did not replace the technology while the fine was unpaid, resulting in a complete denial of education to the student for months. In other districts and charter schools, replacement fees—as high as \$1500 for one family at KIPP—caused delays for students in accessing replacement technology. These gaps in learning contributed to students being forced to repeat their grade.

For many families, the start of the 2021-2022 school year was plagued by miscommunications and continued barriers to education access due to technology charges. Contrary to its plan that each student would have their own device, St. Louis Public Schools denied access to technology—even for day use in the school building—to students who had outstanding fines for lost, stolen, or damaged devices from the previous school year. Students whose families could not afford the charges started the school year on unequal footing than their peers. One parent observed that her child was being punished—forced to watch his classmates access lessons on their tablets in class while he sat with paper and pencil—because his family was poor. St. Louis Public Schools later reversed its practice of denying replacement devices to families with outstanding fees<sup>116</sup> but has not waived outstanding fines for lost, stolen, or damaged devices (except in one known case when EJP got involved).

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<sup>114</sup> *Free & Reduced Enrollment*, *supra* note 72.

<sup>115</sup> *Normandy Schools Collaborative LEA Summary of Selected Facts*, CIV. RIGHTS DATA COLLECTION, OFF. FOR CIV. RIGHTS (2017), <https://ocrdata.ed.gov/profile/9/district/27970/summary>.

<sup>116</sup> St. Louis Public Schools had continually said since July 2021 that every student would have a device and variously named September 3 and September 7 as the dates by which this would happen. *See SLPS Reopening Plan 2021-2022*, ST. LOUIS PUB. SCHS. (July 2021),

Some districts claim they cannot bear the cost of lost or damaged technology and have kept or instituted policies and practices during the pandemic that explicitly place this burden on families. See Appendix 1 for a list of district practices related to technology fees and those related to access to replacement devices for the 2020-2021 and 2021-2022 school years. While there are certainly very real considerations regarding the maintenance of district property that districts must weigh, our investigation found that it is possible for districts to create alternative processes that shift the burden of replacement technology costs away from students and parents. East St. Louis School District has been able to do just that. According to its Chief Academic Officer in charge of the Technology Department, this district has not charged any families fees for necessary technology during the pandemic—neither upfront charges nor fines for replacement devices. East St. Louis does have a school/family/student compact for remote learners in which students agree to “take care of the Chromebook and other school materials while at home,”<sup>117</sup> but this compact does not bind families to fines for damage or loss. The district’s policy regarding replacement devices is simply that “[s]hould the Chromebook and any issues hotspot become defective, the student will need to return the device to their home school for a replacement.”<sup>118</sup> East St. Louis uses federal pandemic relief (ESSER funds) and other district funding sources to cover the entire cost of repair and replacement. Missouri districts can look to this Illinois neighbor as a model.

### *C. Mandatory Technology Agreements as Contracts Binding Families to High Fees*

Almost every district providing technology to students has required families to sign some type of document in order to receive a device. The exact language varies, as do the implications: in some districts they are merely “informational,” but others treat them as enforceable contracts. Too often, parents do not fully understand what they are signing or do not feel they have an option to refuse. One monolingual Spanish-speaking parent in St. Louis Public Schools was told she had to sign the district Technology Agreement written in English in order to pick up a device for her daughter. This agreement was then held against her and used to levy a \$320 fine for a lost device. Even parents with high English literacy may not comprehend the legal responsibility imposed by these documents, which they are told are necessary to have signed in order for their child to gain access to education. Furthermore, many parents and guardians cannot access these documents online, and because some districts did not provide parents copies, families had no way to recall the terms of these supposed agreements.

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<https://www.slps.org/cms/lib/MO01001157/Centricity/Domain/1/RESTART-PLAN-JULY-2021-Interactive.pdf>; *2021-2022 Blended & Virtual Learning Plan*, ST. LOUIS PUB. SCHS. (Sept. 2021),

<https://www.slps.org/cms/lib/MO01001157/Centricity/Domain/8188/VirtualLearningExpectations.pdf>. However, because of the District’s initial (inconsistently applied) practice of denying new technology to students with outstanding fees, it took weeks for all students to actually receive technology. Even then, students in quarantine were left without access to technology, since they were not allowed to take devices home if they owed fees. It was not until the board meeting on October 12, 2021, that the District announced that technology would be supplied to all students in quarantine, even those who had not paid fines.

<sup>117</sup> *District Return to Learn Plan*, E. ST. LOUIS SCH. DIST. 53 (Aug. 7, 2020); *District Return to Learn Plan SY2021-2022*, E. ST. LOUIS SCH. DIST. 30 (Aug. 4, 2021) [hereafter East St. Louis 2021-2022 Return to Learn Plan].

<sup>118</sup> East St. Louis 2021-2022 Return to Learn Plan, *supra* note 115, at 8.

Some agreements did not give notice of the fees or fines which families may be liable. For example, in Ritenour School District, the form makes them responsible for “costs incurred or damages inflicted,” but the form itself does not contain any indication of what these costs might be. They would have to find the Parent Guardian Student Chromebook Handbook policy on the District’s website (which is not easily accessible) to learn this amount could be up to \$250.

In addition to these procedural concerns, many district technology agreements place the entire cost of damages for lost, stolen, or damaged technology onto the party signing the form. See Appendix 2 for a chart containing sample language from district technology agreements. As the stories in this Part show, the burden of these technology fees and fines cause financial hardship for many families.

#### *D. Lack of Education During Quarantine*

Policies imposing technology fees and barring students from accessing technology when they owe fees create inequitable barriers that are exacerbated by the pandemic. At the start of the 2021-2022 school year, some districts lacked a comprehensive plan for continued learning for quarantined students. Districts that initially refused to issue technology to students with outstanding fines, such as St. Louis Public Schools, effectively denied access to both in-person and virtual learning to students who had to quarantine after an exposure to the coronavirus.

St. Louis Public Schools denied one family access to an iPad at the start of the 2021-2022 school year claiming that they had not returned the device issued the previous year—despite the fact that the family received written notice from the student’s teacher that all devices were returned. Two days into the school year, the student had to quarantine due to an exposure in class. Although the district’s Blended & Virtual Learning Plan promised access to virtual instruction in the form of Microsoft Teams video calls for quarantined students, this student received only paper packets of “homework” for the duration of the fourteen-day quarantine. These 20-page packets, which consisted of math and vocabulary worksheets, did not appear to be aligned to the current classroom curriculum nor to state standards for adequate education.

Additionally, districts appear to enforce policies related to quarantine and instruction inconsistently across their schools. Within St. Louis Public Schools, Patrick Henry Downtown Academy, which has a 100% Black student population, issued paper packets to students whose families owed technology fees. This school-wide practice may have been due to the high numbers of students with outstanding fees and thus no technology under the district’s policy; there were simply too many students without technology to issue loaner devices to each quarantine student and to adopt a virtual learning option during quarantine. In the same district, Mason School of Academic and Cultural Literacy, which has a 43.1% white student body, the number of students who lacked technology due to fees was smaller, so the school was able to issue loaner devices to quarantined students who needed them, and thus could adopt a quarantine practice that included live instruction through Microsoft Teams.

These examples demonstrate significant disparities in access to quality virtual education during quarantine that must be addressed.

### *E. Barriers to Graduation*

Many districts have now realized that withholding technology from students deprives them of an education and fails to advance districts' goal of minimizing education disruptions. Even when students receive devices, however, districts who refuse to waive outstanding charges may still jeopardize the students' education outcomes. EJP is aware of numerous districts that penalize students who have unpaid technology fines. Because their families cannot afford to pay these fines, these students sometimes cannot participate in school events, like dances; they are denied transcripts, which higher education institutions require; and they may be denied the opportunity to walk across the stage at graduation.

Most "technology agreements" do not put families on notice that diplomas can be withheld for failure to pay technology fees. While the practice of conditioning graduation on the payment of school-related fines is decades old, technology fines can be vastly more significant than \$10 fines for overdue library books.

Ritenour School District, for example, sent emails to hundreds of high school seniors in the spring of 2020 requiring full payment of technology fines before students could attend prom or attend graduation. Some families were told they owed nearly \$800, and records we received through our Sunshine request indicate that district administrators were overwhelmed with processing these fines. Students feared they would not be allowed to graduate and sought help from the district. One student had paid a Chromebook insurance fee as a junior, and another student broke their device. They were then told in their senior year that they owed a \$325 fee because the insurance they had paid for did not cover the damage. "I guess I'm not graduating," wrote the student in an email to an administrator.

In Union, students may face "disciplinary action" after two incidents of accidental damage to a Chromebook. This consequence is not further defined in the district's policies. The vagueness of this warning means that students could be unfairly punished for incidents entirely beyond their control.

### *F. Financial Burdens and Uncertainties*

Even without school fines, many public-school families struggle with financial debt. The pandemic has increased economic insecurity for over a million Missouri families.<sup>119</sup> "Every dollar has to go toward basic necessities," said one parent living below the poverty line who was charged \$250 for a lost Chromebook by her son's school. Her family was adversely affected financially by the pandemic, and she worried about the impact of the additional stress of the technology fee on her children.

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<sup>119</sup> According to the U.S. Census Bureau's Household Pulse Survey, 1,231,000 Missouri adults (29%) had difficulty covering usual household expenses from September 15 to October 11, 2021, and 9% of all Missouri households experienced difficulty getting enough food during that time period. *Tracking the COVID-19 Economy's Effects on Food, Housing, and Employment Hardships*, CTR. ON BUDGET & POLICY PRIORITIES (Nov. 10, 2021), <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and>. In those same weeks, 11% of Missouri renters were behind on rent. The unemployment rate in the state averaged 4.2% from June to August 2021. *Id.*

Although few districts indicated that they tracked demographic data for students charged fees, evidence indicates that fines disproportionately affect Black students, both in majority-Black districts and in majority-white districts. In University City, where 80.9% of students are Black, 91% of students being charged fees were Black. Rockwood enrollment is only 8.5% Black students, yet Black students account for 29.4% of technology charges in that district.<sup>120</sup> Records from KIPP and Ritenour School District indicate that administrators understand that technology fine policies may also be especially difficult for students experiencing homelessness.

Like the parent quoted above, low-income parents often must choose between paying a technology fee or other things necessary for their children's overall health and wellbeing, like nutritious food. The effects of these economic stresses have an impact on children's ability to focus in school and their overall education outcomes. Youth who worry about their family's economic needs have lower academic achievement.

Some districts have worsened the financial burden of technology fees by leaving families in limbo without information regarding penalties for not paying. Union School District threatens not only debt collection but also repossession: "Students not complying with all terms of [the Chromebook Insurance Agreement] and the Chromebook One-to-World Handbook, including the timely return of the property, will be declared to be in default and authorities may be sent to your place of residence, or other location of the Chromebook to take possession."<sup>121</sup> Across districts, debt collection and repossession are very real concerns for many of the families who responded to EJP's Technology Access Survey. One grandparent shared that she cannot determine how to prioritize her financial decisions due to the uncertainty surrounding the technology fee she is being charged by her grandson's school district, but she is afraid to ask what will happen if she is unable to pay the fee.

#### *G. Lack of Clear, Current Policies*

Transparent communication from districts to families creates trust. Missouri law requires school districts to make their board policies public as a way to increase transparency with families, staff, and community members.<sup>122</sup> Yet as the 2021-2022 school year approached, many districts had not updated their technology policies. The COVID-19 pandemic increased schools' reliance on technology, which should be accounted for in board policies. Many Missouri districts have not incorporated COVID-19 pandemic conditions into their technology policies, and some have not updated these policies (or their websites that list them) in over a decade. The "Technology Plan" on the St. Louis Public Schools website, for example, is dated 2009.<sup>123</sup>

In the absence of clear, written policies, district staff have broad discretion. In some instances, kind school staff may choose not to enforce fines or to grant waivers to some families. Although this may benefit individual families, such an approach invites bias, disadvantages

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<sup>120</sup> Chart Provided by Rockwood School District to Legal Services of Eastern Missouri (Nov. 15, 2021) (on file with Legal Services of Eastern Missouri).

<sup>121</sup> *Chromebook Insurance Agreement*, UNION R-XI SCHOOL DISTRICT (last updated Sept. 18, 201).

<sup>122</sup> See MO. REV. STAT. § 610 .011 et seq.

<sup>123</sup> *Technology Plan*, ST. LOUIS PUB. SCHS., <https://www.slps.org/Page/731> (last accessed Jan. 27, 2022).

families who do not realize that they can seek a fee waiver or a payment plan, and exacerbates intra-district disparities.

Although we do not endorse the fines and fees that KIPP charter schools have charged families for technology, KIPP does have a clear Chromebook Plan for the 2021-2022 school year.<sup>124</sup> This plan includes multiple phases to foster widespread insurance enrollment and an understanding of Chromebook care in the classroom.<sup>125</sup> The plan notifies families of the charges that would be owed with and without insurance in a variety of situations. It also lays out specific procedures for follow-up when damages take place and for instruction during quarantine. KIPP also offers scholarships for families unable to purchase its \$20 insurance plan.

#### **IV. LEGAL CONSIDERATIONS FOR DISTRICT TECHNOLOGY PRACTICES**

##### *A. Free Public Education Includes Access to Technology Integral to Learning*

While best practices around technology in education during the COVID-19 pandemic are not yet certain, the basic legal obligations of districts are clear. The Missouri Constitution guarantees all people under age twenty-one the right to a free public education.<sup>126</sup> This means school districts cannot charge registration fees or fees for classes in which academic credit is given, regardless of the size of the charge.<sup>127</sup> Schools cannot charge for summer school or night school programs, nor for the normal wear and tear on textbooks.<sup>128</sup>

Fines for unreasonable damage to incidental materials may be appropriate.<sup>129</sup> Prior to the COVID-19 pandemic, a parent or student may have expected to pay a small fine for a lost or damaged library book, or a small fee for field trips or school supplies. Significantly, these charges are for things that are supplemental but not essential to learning.

On the other hand, as this white paper has detailed, technology has now become—and will remain—integral to students’ learning. Families tell us they face fines from purely accidental damage and/or normal wear and tear. Nearly all students who told us they had lost or damaged devices are students with disabilities, and very often the circumstances that led to the loss or damage appears to be related to the students’ disabilities. Yet school districts do not consistently offer alternatives to the payment of fees or fines for one-to-one technology devices, nor do they seem to consider the student’s underlying circumstances (i.e., disability, income, or homelessness).

Acknowledging that technology is now often necessary to access education, the Department of Elementary and Secondary Education (“DESE”) issued guidance in August 2020 warning districts that charging course fees or requiring students to furnish education materials

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<sup>124</sup> *Chromebook Plan*, KIPP: ST. LOUIS (2021).

<sup>125</sup> *Id.* All Chromebooks were kept at school until October 18, 2021, at which point students needed to have insurance in order to take a device home.

<sup>126</sup> MO. CONST. art. IX, § 1(a).

<sup>127</sup> *Concerned Parents v. Caruthersville Sch. District 18*, 548 S.W.2d 554, 562 (Mo. 1977). “The general rule is that a requirement for free schools will invalidate any fee, whether denominates tuition, matriculation fee, registration fee, library fee, incidental fee, or anything else.” *Op. Att’y Gen.* 269-72 (1972).

<sup>128</sup> *Op. Att’y Gen.* 266-73 (1973).

<sup>129</sup> *Id.*

could be unlawful.<sup>130</sup> This DESE guidance dissuaded school districts from charging fees, cautioning that this practice could be unconstitutional, especially during the COVID-19 pandemic, and recognized many families were facing financial hardships. This guidance does not differentiate between upfront fees like deposit requirements and fees for lost, damaged, or stolen devices. Any of these fees could create financial barriers that impact student access to necessary technology and therefore be improper.

*B. Missouri and Federal Equal Protection Laws Protect Students from Inequitable Technology Barriers*

In addition to the guarantee of free public education, students are also entitled to receive this education in a way that avoids advantaging one group or individual over another.<sup>131</sup> Under the Fourteenth Amendment to the U.S. Constitution, no state (or state entity like a school district) can “deny to any person within its jurisdiction the equal protection of the laws.” Similarly, Missouri’s Constitution provides that “all persons are created equal and are entitled to equal rights and opportunity under the law.”<sup>132</sup> These constitutional provisions generally protect individuals from receiving different treatment by a state entity than others who are similarly situated.

In addition, federal law specifically protects students from being denied an education on the basis of their race, color, sex or national origin.<sup>133</sup> Another federal statute protects students from not just intentional discrimination but also policies or practices that impact them differently based on their race, color, or national origin.<sup>134</sup>

To meet applicable legal requirements, districts must ensure that their actions do not affect students unequally and therefore must investigate the impacts of their policies and practices related to technology fees. As we described in Section III *supra*, similarly situated families may have faced differential treatment with regard to technology fees and fines, particularly in how schools have handled technology for quarantined students. Our Sunshine requests and client stories revealed potentially systemic disadvantaging of students in certain groups, including Black students, students with disabilities, and students experiencing homelessness. Without clearer data tracking practices, districts may not even realize that they are discriminating, but in the districts where EJP has gotten involved, administrators are on notice that their practices may be inequitable, and some have continued despite this notice.

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<sup>130</sup> Chris Neale, *Administrative Memo QS-20-010: 2020-2021 School Year Information*, MO. DEP’T OF ELEM. & SECOND. EDUC. (August 19, 2020), <https://dese.mo.gov/2020-21-school-year-information>.

<sup>131</sup> *Doe v. Phillips*, 194 S.W.3d 833, 845 (Mo. banc 2006).

<sup>132</sup> MO. CONST. art. I, § 2.

<sup>133</sup> 20 U.S.C. § 1703(f). This law “[d]eclares it to be the policy of the United States that all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin.” 20 U.S.C. § 1701(a).

<sup>134</sup> 42 U.S.C.A. § 2000(d) (“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance”).

### *C. Missouri Contract Law Prohibits Unconscionable Technology Agreements*

Sometimes parties who enter into agreements or written contracts have unequal power. State law prevents more powerful parties from forcing less powerful parties to make unfair agreements.<sup>135</sup> Courts weigh a variety of procedural and substantive factors to determine whether a contract is so unfair that it cannot be enforced, including oppression, unfair surprise, and objectively unreasonable terms.<sup>136</sup>

School districts that own the technology students need to access a public-school education have far more power than families whose children need to attend school. Furthermore, the circumstances in which parents are told they must sign technology agreements are often high-pressure and reinforce the unequal bargaining power of districts and families. Every district we investigated required parents and guardians to sign a district-created form for in order for their children to receive a device. Parents and guardians felt they had no choice but to agree to the contract's terms, even terms that bound them to replacement fees of up to \$400, because their children needed access to technology in order to access education. In districts where "technology agreements" are treated as enforceable contracts by districts, families may therefore have recourse against enforcement under Missouri contract law.

### *D. Other Federal Laws Protect Specific Groups of Students from Technology Barriers*

Beyond the constitutional and contract law protections that have the potential to apply to all public-school students in Missouri, there may be additional legal protection against technology barriers for students experiencing homelessness and students with disabilities.

Students experiencing homelessness have the right to the same free and appropriate public education as any other students.<sup>137</sup> To comply with applicable laws, DESE and school districts must make sure their usual policies and practices do not create access barriers for students experiencing homelessness.<sup>138</sup> Lack of technology during COVID-19 virtual learning is precisely the type of barrier that districts must eliminate for students experiencing

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<sup>135</sup> See *State ex rel. Vincent v. Schneider*, 194 S.W.3d 853, 857 (Mo. 2006) (citing *Robin v. Blue Cross Hosp. Serv., Inc.* 637 S.W.2d 695, 697 (Mo. banc 1982)) (describing contracts of adhesion as form contracts that are created and imposed by the party with a greater bargaining power). While contracts of adhesion are not inherently unenforceable, any unconscionable contract or term is unenforceable. *Eaton v. CMH Homes, Inc.*, 461 S.W.3d 426 (Mo. 2015) (modern consumer contracts usually entail adhesion and unequal bargaining power, not automatically invalid); *Vincent*, 194 S.W.3d; *Ramirez-Leon v. GGNSC*, 553 S.W.3d 318 (Mo. Ct. App. W.D. 2018) (restating standards).

<sup>136</sup> See *Brewer v. Mo. Title Loans*, 364 S.W.3d 486, 492-93 (Mo. 2012) (citing *Cowbell, LLC v. Borc Building. & Leasing Corp.*, 328 S.W.3d 399, 405 (Mo.App. 2010)).

<sup>137</sup> 42 U.S.C. § 11431(1). The definition of "homelessness" in the McKinney-Vento Act covers individuals who lack a fixed, regular, and adequate nighttime residence, which may include: (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and (iv) migratory children. 42 U.S.C. § 11434a.

<sup>138</sup> 42 U.S.C. § 11431(2).

homelessness.<sup>139</sup> That means districts must provide replacement devices free of charge to students experiencing homelessness, even if other students are not provided devices under the circumstances.<sup>140</sup>

Children with disabilities must also have access to a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.<sup>141</sup>

## V. OPPORTUNITIES TO ADDRESS TECHNOLOGY BARRIERS AND INEQUITIES IN SCHOOLS

The pandemic offers an opportunity to reflect on what we prioritize in education.<sup>142</sup> In fact, there is no better time to address the issue of equitable access to technology. As districts explore restorative justice, social-emotional learning, and other innovations in education<sup>143</sup> they can also re-evaluate the role of technology. Alongside this urgent need to address the digital divide has also come a once-in-a-lifetime influx of school funding. Although Missouri spends comparatively little on public education,<sup>144</sup> new sources of funding could make it possible to bridge the digital divide. School districts now have an opportunity to provide students with the

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<sup>139</sup> *FAQ on COVID-19 and Homelessness*, SCHOOLHOUSE CONNECTION, <https://docs.google.com/document/d/1TItU6XatUxuX-kUlhk2BLDystQ3IlwrvBrj-qkgmS0/edit> (last updated Oct. 12, 2020) (“In a distance learning environment, [removing barriers to enrollment] would include providing devices, connectivity, chargers, and other support that McKinney-Vento students need to be able to participate”).

<sup>140</sup> See 42 U.S.C. § 11432(g)(1)(I) (districts, in serving students experiencing homelessness, must “remove barriers to enrollment and retention due to outstanding fees or fines...”). There are no exceptions for technology replacement fees; such a fee is plainly a barrier that must be removed. The National Association for the Education of Homeless Children and Youth (“NAEHCY”) offers a simple framework for determining whether fees are barriers that districts must eliminate under McKinney-Vento: (1) Does the fee pose a barrier to the student attending classes? (2) Does the fee pose a barrier to the student participating fully in school activities? (3) Does the fee pose a barrier to the student remaining in school and graduating from high school? If the answer to any of these questions is yes, the barrier must be eliminated. Patricia Julianelle, *The McKinney-Vento Act and School Fees*, NAEHCY (2016), <http://www.theotx.org/wp-content/uploads/2016/10/M-V-School-Fees-NAEHCY-Sep-2016.pdf>. Missouri’s own DESE released special training materials for districts navigating McKinney-Vento obligations during COVID-19, encouraging LEAs to “pay for unlimited data and insurance on devices” and to “provide sufficient data and devices for every student in the family.” Cheryl Kosmatka, *Supporting Students Experiencing Homelessness During School Reopening*, MO. DEP’T OF ELEM. & SECOND. EDUC. (Fall 2020).

<sup>141</sup> 20 U.S.C. § 1400(d)(1)(A).

<sup>142</sup> See, e.g., Larry Ferlazzo, *How Students Want to Reimagine Education Next Year* EDUC. WEEK (June 14, 2021), <https://www.edweek.org/teaching-learning/opinion-students-reimagine-education/2021/06>; Adam K. Edgerton, *Leveraging Recovery Funds to Prioritize Wellness and Accelerate Learning* (July 27, 2021), LEARNING POLICY INST., <https://learningpolicyinstitute.org/blog/covid-leveraging-recovery-funds-prioritize-wellness-accelerate-learning>; Linda Darlin-Hammond et al., *Restarting and Reinventing School: Learning in the Time of COVID and Beyond*, LEARNING POLICY INST. v (Aug. 2020), <https://restart-reinvent.learningpolicyinstitute.org/>.

<sup>143</sup> Edgerton, *supra* note 140; Darlin-Hammond, *supra* note 141, at 41-42.

<sup>144</sup> U.S. Census data shows that only nine states spend less on public education than Missouri. *2020 Public Elementary-Secondary Education Finance Data*, U.S. CENSUS BUREAU (2020), <https://www.census.gov/data/tables/2020/econ/school-finances/secondary-education-finance.html>. In contrast, funding per prisoner in Missouri remains higher than funding per student. Janice Ellis, *Funding Prisons Is a Higher Priority Than Funding Education in Most States. Why?* (Oct. 18, 2021), MO. INDEP., <https://missouriindependent.com/2021/10/18/funding-prisons-is-a-higher-priority-than-funding-education-in-most-states-why/>.

technology necessary to access their education and replace or repair technology without charging fees to families. Educators, families, and community members have the opportunity to engage in finding solutions too.

#### A. Opportunities for School Districts

Schools have always been many things to the families of their students—resource distribution sites, support systems, and centers of community and connection. During the pandemic when children have less access to other supports, schools play an even more vital role in children’s wellbeing. As the gatekeepers of access to education, district actions and inaction have tremendous impact on students. School districts certainly face different hurdles in implementing more equitable technology policies and practices, but ultimately, the law requires them to ensure that family resources do not affect students’ ability to receive a free public education. With Missouri’s “local control” model of education, districts are in the best position to make changes to policies and practices that can equalize students’ access to technology.<sup>145</sup>

Fortunately, new sources of funding create an opportunity for school districts to fulfill the guarantee of *free* public education. In March 2021, Congress approved federal funding for elementary and secondary schools.<sup>146</sup> Missouri has received almost \$2 billion from this relief plan.<sup>147</sup> Previous relief bills have created additional grants that can be used for education.<sup>148</sup> Missouri created two grant programs that distributed \$20 million.<sup>149</sup> One of those programs provided funds to school districts to purchase Wi-Fi enabled devices.<sup>150</sup> St. Louis County used federal CARES Act funding to create a Digital Equity Initiative, which distributed \$4 million worth of technology.<sup>151</sup> The County provided 9,828 hotspots and 6,085 Chromebooks to both public and private schools.<sup>152</sup>

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<sup>145</sup> See MO. REV. STAT. § 162.621.

<sup>146</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, §§ 2001(a), (b) (2021).

<sup>147</sup> *American Rescue Plan Elementary and Secondary School Emergency Relief Fund: Methodology for Calculating Allocations* (March 17, 2021), U.S. DEP’T OF EDUC. OFF. OF ELEM. & SECOND. EDUC., [https://oese.ed.gov/files/2021/03/FINAL\\_ARP-ESSER-Methodology-and-Table.pdf](https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-Methodology-and-Table.pdf). Note that the U.S. Department of Education initially announced in March 2021 that \$1,956,529,215 would go to Missouri but later revised this figure in June 2021.

<sup>148</sup> The American Rescue Plan ESSER Fund (sometimes called “ESSER III”) comes after two other large grants of money to schools related to the pandemic: the ESSER Fund created by the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act enacted on March 27, 2020; and the ESSER II Fund enacted through the December 27, 2020, Coronavirus Response and Relief Supplemental Appropriations (“CRRSA”) Act. Fact Sheet, American Rescue Plan Act of 2021, U.S. DEP’T OF EDUC. (2021), [https://oese.ed.gov/files/2021/03/FINAL\\_ARP-ESSER-FACT-SHEET.pdf](https://oese.ed.gov/files/2021/03/FINAL_ARP-ESSER-FACT-SHEET.pdf). See this fact sheet for a comparison of these three funding sources.

<sup>149</sup> *State Plan for the American Rescue Plan Elementary and Secondary School Emergency Relief Fund*, MO. DEP’T OF ELEM. & SECOND. EDUC. 8-9 (Sept. 13, 2021), <https://dese.mo.gov/media/pdf/arp-esser-missouri-plan>.

<sup>150</sup> *Id.* at 9.

<sup>151</sup> *CARES Act Funds to Fill the Internet Access Gap for St. Louis County Families, Page Announces*, KMOV4 (Aug. 2020),

[https://www.kmov.com/news/cares-act-funds-to-fill-the-internet-access-gap-for-st-louis-county-families-page/article\\_fe9d97a0-d500-11ea-9f8d-b7ab0e5b3bd3.html](https://www.kmov.com/news/cares-act-funds-to-fill-the-internet-access-gap-for-st-louis-county-families-page/article_fe9d97a0-d500-11ea-9f8d-b7ab0e5b3bd3.html).

<sup>152</sup> *CARES Year in Review Report*, ST. LOUIS CTY. CARES (June 2021), <https://stlouiscountymo.gov/open-data/covid-19-expenditures/cares-year-in-review-report/>.

In addition, Congress authorized \$800 million for students experiencing homelessness.<sup>153</sup> In Missouri, at over \$2 million will support students experiencing homelessness.<sup>154</sup> School districts can use this extra funding flexibly.<sup>155</sup> Not only can school districts use this funding to provide the initial technology to students experiencing homelessness, but they can also provide the replacement technology necessary for them to access their education.<sup>156</sup> This special funding for students experiencing homelessness is an additional layer of designated funding, on top of the new pots of funding for all students.

In light of this unprecedented influx of resources to schools, there has never been a better moment for districts to reconsider how to prioritize equitable technology access. Depending on student demographics, staff dynamics, geographic area, community values, and resources available, different school districts may be facing different hurdles in implementing more equitable technology policies and practices. We highlight the following opportunities for school districts to move forward in addressing their students' technology needs.

- 1. Ensuring that All Students Have Access to Necessary Technology.** Students must have the technology they need during quarantine, virtual learning, and in-person instruction—in short, all the time—regardless of their family's ability to pay fees or fines. While developing updated technology policies, districts must prioritize getting devices in the hands of students in an equitable manner. Regardless of past policies, districts can always opt to course correct. For example, after weeks of intra-district learning inequities exacerbated by technology fines at the start of the 2021-2022 school year, St. Louis Public Schools decided in October 2021 to change its policy banning students with outstanding fees from accessing replacement technology in the classroom and during quarantine. While concerns about other aspects of this district's technology policies and practices remain, this shift to ensure universal technology access in school and during mandatory quarantine periods has given more St. Louis Public Schools students access to free public education. As St. Louis Public Schools Board member Alisha Sonnier observed during the board meeting that led to this policy change, "Students having what they need should be our priority."<sup>157</sup>
- 2. Waiving Past Technology Fees and Fines.** Waiving all fees and fines accrued from March 2020 through the start of the current school year is a necessary step to reach an

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<sup>153</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, § 2001(a) (2021).

<sup>154</sup> *American Rescue Plan Supporting the Specific Needs of Homeless Children and Youth: Reservation from the Elementary and Secondary School Emergency Relief Fund*, OFF. OF ELEM. & SECOND. EDUC., <https://oese.ed.gov/files/2021/04/Attachment-2-ARP-Homeless-I-SEA-Reservations.pdf>.

<sup>155</sup> *Letter Announcing Grant Award for Homeless Children and Youth to Chief State School Officers*, U.S. DEP'T OF EDUC. 3-4 (Apr. 23, 2021), <https://oese.ed.gov/files/2021/04/ARP-Homeless-DCL-4.23.pdf>. Activities that school districts pay for with the funds "may include any expenses necessary to facilitate the identification, enrollment, retention, and educational success of homeless children and youth." *Id.* These activities may include "purchasing cell phones or other technological devices for unaccompanied youth to enable the youth to attend and fully participate in school activities" and "providing access to reliable, high-speed internet for students through the purchase of internet connected devices/equipment, mobile hotspots, wireless service plans, or installation of Community Wi-Fi Hotspots (e.g., at homeless shelters), especially in underserved communities." *Id.*

<sup>156</sup> *Id.* at 4.

<sup>157</sup> St. Louis Public Schools, *Board of Education 10\_12\_2021*, YOUTUBE (October 12, 2021), <https://www.youtube.com/watch?v=Cha-9Rb4DZY>.

equitable baseline for students and families. A waiver acknowledges the chaos and instability that the height of the COVID-19 pandemic wreaked on families' lives and students' education. By governor's order, all Missouri schools were closed to in-person learning from mid-March 2020 through the end of the 2019-2020 academic year.<sup>158</sup> During this time, districts emphasized a "grace period" approach<sup>159</sup> and scrambled to procure enough technology for students to learn remotely. In some districts, technology shortages prevented students from receiving one-to-one technology until well into the 2020-2021 school year.<sup>160</sup> The challenges detailed in Section I of this white paper led to learning losses during the first year of the COVID-19 pandemic. These challenges continue, and learning gaps continue to widen. Districts have the opportunity to remedy inequities that the pandemic illuminated by immediately forgiving debts for technology fees and fines from past academic years.

- 3. Developing Data Collection Practices to Promote Transparency.** When EJP began sending requests to districts under the Missouri Sunshine Law in April 2021, it soon became clear that most districts had not tracked or analyzed technology fees and access across student demographics. If districts are not consciously gathering and analyzing this data, they cannot be aware of the ways in which their policies and practices disproportionately affect Black students, low-income students, students with disabilities, students experiencing homelessness, English language learners, or other groups of students who already bear the weight of systemic inequality. Focusing on equity in data collection, data interpretation, and data use is critical for advancing better education outcomes for all students.<sup>161</sup> In the context of technology access, this could be as simple as adding student demographic information into existing technology databases and periodically reviewing any trends in who is most affected by fine and fee policies.
- 4. Purchasing Comprehensive Insurance for All District Devices.** Technology damage and loss is an inherent cost associated with providing a free public education that they are required to provide. Districts may need to absorb the burden of insurance at the time they purchase devices instead of passing that burden onto families when devices inevitably are damaged or lost. When evaluating insurance options, districts could opt for coverage that eliminates fees for families (for example, less-than-comprehensive plans like AppleCare could be paired with other plans that cover the remainder of the cost to families). While this approach may result in higher upfront costs to districts, it will free them of the

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<sup>158</sup> Elle Moxley and Ryan Delaney, *Missouri Governor Orders Schools to Remain Closed for Rest of Academic Year Due To COVID-19*, KCUR 98.3 (Apr. 9, 2020), <https://www.kcur.org/education/2020-04-09/missouri-governor-orders-schools-to-remain-closed-for-rest-of-academic-year-due-to-covid-19>.

<sup>159</sup> *Id.*

<sup>160</sup> See, e.g., Megan Dillard, *COVID-19 Creates Tech Shortages as Demand from Schools, Businesses Runs High*, FOX4 (Jul. 21, 2020), <https://fox4kc.com/news/covid-19-creates-tech-shortages-as-demand-from-schools-businesses-runs-high/>.

<sup>161</sup> See Andrew Ford, *Using Data to Advance Racial Equity*, EDUTOPIA (Aug. 4, 2020), <https://www.edutopia.org/article/using-data-advance-racial-equity>. My Nguyen, *How Districts Are Using Data Equity to Drive Decisions and Improvements*, Digital Promise (Oct. 18, 2021), <https://digitalpromise.org/2021/10/18/how-districts-are-using-data-equity-to-drive-decisions-and-improvements/#:~:text=Data%20equity%20applies%20an%20equity,engaged%20throughout%20the%20data%20cycle>.

administrative burdens of tracking and collecting fees, and more importantly it is necessary given technology's integral role in education. If districts instead decide to charge families insurance fees, they can ensure that (1) such charges are not mandatory, and (2) waivers are available to families who cannot afford the insurance fee but still desire to have their child's device insured.

- 5. Using Clear and Accessible Language.** Districts can ensure that all communications with parents and guardians related to student technology are developed within an equity framework. For this reason, if insurance is offered and the burden falls on families, as mentioned above, families must have clear notice of a waiver option. Districts may not be able to enforce technology agreements that families are forced to sign in order to access technology necessary for their children to receive an education. Districts should not attempt to bind families to any contractual agreement without ensuring that they fully understand the terms. Districts should offer translated versions of documents or multiple formats (such as electronic or hard copy, to account for parent technological literacy levels). All potential consequences and conditions must be spelled out.<sup>162</sup>
- 6. Reviewing District Technology Practices for Graduation Barriers.** Districts that maintain policies or practices that withhold graduation privileges from students with outstanding fees and fines may want to review whether such practices are still necessary. Such practices, which may have originated decades ago when overdue library books were the main source of school-related fines, are inappropriate in an era when students may owe hundreds of dollars for damaged or lost technology devices. Denying students the opportunity to walk across the graduation stage or obtain their diploma effectively discriminates against students whose families cannot afford to pay these high sums.
- 7. Reviewing Communications, Websites, and Documents Related to Technology.** Our sample scan of district policies revealed that some district boards' technology policies were last updated over a decade ago, and some boards lack a single cohesive technology policy, much less a technology equity policy. In the acute crisis of the pandemic, it was understandable that official policy updates were not a priority. As the education landscape stabilizes, districts can require clear, detailed policies which recognize the integral role of technology in education and which are publicly accessible (online or by request in-person). Districts should have all information and instructions related to

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<sup>162</sup> We have heard from families in several different districts that districts often offer payment plans for families who cannot afford the full cost of the technology fees they are being charged, but that these payment plans are not administered consistently across schools and districts. Whether a district enforces the entirety of a payment plan seems to be at the whim of administrators, or even classroom teachers. For example, one of our clients was told that she only had to pay \$5 toward her outstanding charge in order for her child to receive a replacement device, while another parent in the same school district was not informed about this option and thought she had to pay in full; in another instance, administrators were known to arbitrarily waive the remaining sum on a technology charge if families put down a partial payment. While we appreciate the leniency that some of these well-intentioned district staff seem to be demonstrating, any practice that is as inconsistently enforced as this becomes ripe for implicit bias. We are concerned that, without clear guidelines for waivers and expectations for payment plans that are equitably administered, disparate outcomes will be reinforced by payment plan policies. For districts that feel they absolutely cannot purchase upfront insurance, as we are recommending, and must turn to payment plans instead, we recommend that detailed guidelines be developed so that all district staff understand the factors that can lead to payment plan forgiveness.

technology access in one easy-to-find place on their websites, not scattered on different department pages.

- 8. Seeking Family and Community Input to Address Technology Barriers.** The best way to ensure that district policies and practices are equitably developed and implemented is to ensure that diverse voices are at the table. Districts can create technology committees or task forces with representative members from its parent and student populations, including families who have been historically marginalized. Districts can also hold public forums specifically on the topic of technology equity, encourage families to share their experiences and input at board meetings, and distribute surveys that help gather data on technology access. Involving families and the broader community in this process will help build trust, strengthen parent and student investment and engagement, and facilitate innovative solutions.

### *B. Opportunities for Educators*

Classroom teachers, support staff, school-level administrators, and other educators have a role in achieving technology equity. Each of these individuals can be part of a district-wide cultural shift toward more mindful cognizance of who is being affected by decisions around technology access. They can also voice their opinions and share their experiences—and their students’ experiences, in a way that protects student privacy—at school board meetings and through other channels.

When designing lesson plans, teachers should be conscious of which students lack technology access as a result of district policies. As much as possible, lessons and homework should be designed to ensure that students without technology have the same access to learning as students with technology. Teachers should avoid shaming or singling out students who do not have access to technology, and technology issues should not be used as a reason to discipline or punish a student.

With the help of teachers in each classroom, school-level administrators are vital in improving data collection, particularly demographic information related to incidents of technology charges. Communication among educators at different schools in a district is also important, so that intra-district disparities can be recognized and resolved. For example, if the principal at an elementary school that serves relatively affluent students realizes that they have an abundance of extra Chromebooks, they can reach out to the principal of a school that may have fewer extra devices because its student population cannot afford the fines and fees they have been charged to facilitate a device transfer.

### *C. Opportunities for Families*

Parents and students, as those most affected by the inequities of technology access in the school setting, hold more power than they may realize to start conversations about these important education access issues. They can share their stories at school board meetings that may lead districts to adopt more equitable practices and accountability. Parents facing fees or fines that are creating barriers to their child’s education can also talk with other parents about the issue. Families also have rights that could be violated by the technology policies and practices of

districts. They may need to consult with an attorney if these practices are impairing their children's right to an education.

#### *D. Conclusion*

Technology access and literacy touch every corner of our society. In this interconnected world, different sectors must come together to generate creative solutions. Community organizations, government agencies, advocacy nonprofits, local businesses, and the technology industry all have a stake in the education outcomes of children. Each of these community entities represents a powerful force in shaping the future of technology equity, especially when every entity leverages its unique resources, skills, and positionality.

Technology providers themselves must recognize that they are integral players in the movement toward more equitable technology practices in schools, just as technology has become integral to education. Insurance options like AppleCare, which does not cover all instances of loss or damage and leaves families with sometimes-impossible fines even when they are insured, are not twenty-first-century solutions.<sup>163</sup> If school districts feel that they have no good options for shifting the burden away from families, then this is at least in part because technology companies are holding devices hostage. Greater accountability from technology providers is important in this novel post-pandemic landscape.

All these action steps can and must start with dialogue, data, and a commitment to disrupting the former inequitable ways. Such steps could help ensure that technology is harnessed to usher in a new era of education equity.

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<sup>163</sup> As per the St. Louis Public Schools 2021-2022 Technology Contract, for example, damaged iPads still cost families \$70 to replace even with AppleCare insurance, and a lost or stolen iPad is still the full \$320 (or \$420 if equipped with LTE). *St. Louis Public Schools Student Technology Use Agreement*, ST. LOUIS PUB. SCHS. (2021), <https://signnow.com/s/FJHd8m7c>.

**Appendix 1: District Practices Related to Technology Fines and Device Replacement<sup>164</sup>**

<b>District</b>	<b>Policy for Technology Fines for Devices Issued During 2020-2021 School Year</b>	<b>Replacement Device Policy, 2020-2021 School Year</b>	<b>Policy for Technology Fines for Devices Issued During 2021-2022 School Year</b>	<b>Replacement Device Policy, 2021-2022 School Year</b>
East St. Louis (Illinois)	The district does not charge technology fees or fines to families. <sup>165</sup>	The replacement device policy for this year is unclear. If a device is stolen, a police report must be filed and forwarded to the school within one school day of filing. <sup>166</sup>	The district does not charge technology fees or fines to families.	A defective device should be returned to the student's home school for a replacement. If a device is stolen, a police report must be filed and forwarded to the school within one school day of filing. <sup>167</sup>
KIPP Charter Schools	Families owed \$315 to replace a Chromebook, \$30-90 for Chromebook repairs, \$30 to replace a charger, and \$60-90 to replace a hot spot. <sup>168</sup> No insurance was offered.	It seems that students could only receive a new device once the fine for a lost, damaged, or stolen device was paid. <sup>169</sup> If a student currently owes money for damage from the 2020-2021 school year or has not returned a device from this year, the district	The cost to replace a Chromebook is \$450 to families (and a damaged Chromebook is \$60, a charger is \$30, and a hot spot is \$60). <sup>171</sup> The fine is waived if a police report is provided. <sup>172</sup> Students must have insurance to	There are two loaners per classroom for the school to use as they see fit. Students may receive a loaner if needed, but loaners are not allowed to be taken home. If a student has insurance, they are covered on the first incident and

<sup>164</sup> The information in this chart comes from records provided by school districts in response to our Sunshine requests unless otherwise noted.

<sup>165</sup> *District Return to Learn Plan*, E. ST. LOUIS SCH. DIST. (Aug. 7, 2020); phone conversation with Tina Frye, custodian of record (Jan. 14, 2022).

<sup>166</sup> AT&T Radiant Core Hotspot WiFi Device User Agreement, E. ST. LOUIS SCH. DIST. (2019-20 School Year).

<sup>167</sup> *Id.*

<sup>168</sup> *Student Materials Loaner Agreement*, KIPP: ST. LOUIS (2020).

<sup>169</sup> *See id.*

<sup>171</sup> *2021-22 Chromebook Technology Insurance Policy*, KIPP: ST. LOUIS (2021).

<sup>172</sup> *Id.*

		will “determine a way to hold the family accountable—one idea is to charge families 20% of what is owed to show grace...” <sup>170</sup>	take a Chromebook home; insurance is \$20. <sup>173</sup> The district offers insurance waivers to families on a case-by-case basis. <sup>174</sup>	issued a loaner until their device is returned from repair. If a student either does not have insurance or has insurance and owes money given previous incidents, they have four weeks to pay their fine and are provided a loaner to use in school. <sup>175</sup>
Ritenour	Full Chromebook replacement costs families \$250, with lesser costs for repairs to screens, chargers, and keyboards. <sup>176</sup> If a family purchases the optional insurance plan for \$20, they will owe nothing for the first damage claim but \$25 for subsequent damage claims and \$50 for a lost or stolen claim. Police reports must be	This year’s policy on replacement devices is unclear from the records we received, but there is some evidence that replacement devices were provided. However, outstanding fines needed to be paid before a student could graduate or attend prom.	Full Chromebook replacement costs families \$250, with lesser costs for repairs to screens, chargers, and keyboards. <sup>177</sup> If a family purchases the optional insurance plan for \$20, they will owe nothing for the first damage claim but \$25 for subsequent damage claims and \$50 for a lost or stolen claim. Even with insurance, lost or intentionally damaged devices cost the family the full \$250	“All outstanding balances, fines, and fees will have to be resolved before a Chromebook will be issued.” <sup>178</sup> Parents must also sign and return the Technology Usage Agreement and accept or decline insurance coverage before receiving a device for their student.

<sup>170</sup> *Chromebook Plan*, KIPP: ST. LOUIS 4 (2021) [hereafter KIPP Chromebook Plan].

<sup>173</sup> KIPP Chromebook Plan, *supra* note 169, at 2.

<sup>174</sup> KIPP Chromebook Plan, *supra* note 169, at 3; *see* Email from Katie White re: Waiving Insurance Fee for McKinney-Vento Family, KIPP: ST. LOUIS (Aug. 31, 2021).

<sup>175</sup> KIPP Chromebook Plan, *supra* note 169, at 3

<sup>176</sup> *Device Insurance and Repair/Replacement Costs 2020-2021*, RITENOUR SCH. DIST. (2020).

<sup>177</sup> *Parent/Guardian/Student Chromebook Handbook*, RITENOUR SCH. DIST. 2 (2021).

<sup>178</sup> *Id.*

	submitted for cases of device theft. No waiver is clearly available for insurance. Furthermore, “parents/students will be charged for the full replacement cost of a device that has been damaged due to intentional misuse or loss.”		replacement cost. Police reports must be submitted for cases of device theft. No waiver is clearly available for insurance.	
Riverview Gardens	“The family can pay for the Chromebook (\$428.00), or if returned without the charger (\$50), or without the case (\$28.00). A payment plan can be set up...The family can file a Police report...If the unit is damaged, repair/replacement costs would need to be issued/collected at the building.” <sup>179</sup>	“No replacement unit will be issued until full payment is received...No student records will be released for transfers until devices are returned and accounts are settled.” <sup>180</sup> Seniors, 8 <sup>th</sup> graders, 5 <sup>th</sup> graders, and students leaving their current schools were required to return devices before the end of the school year; all other students kept Chromebooks over the summer.	It is unclear if the policy is the same as last year.	It is unclear if the policy is the same as last year.
Rockwood	It is not clear whether the district’s 2021-2022 policy also	It is not clear whether the district’s 2021-2022 policy also	“Willful, deliberate damage to the Chromebook or	Students and parents must sign the 1:1 Program Agreement before

<sup>179</sup> Letter to Riverview Gardens Families, RIVERVIEW GARDENS SCH. DIST. (May 24, 2021).

<sup>180</sup> *Id.*

	applied in 2020-2021.	applied in 2020-2021.	damage caused through negligence will require the student to be charged with the cost for the replacement part or the whole Chromebook.” <sup>181</sup> The district does not charge families for device insurance; it purchased accidental warranty that covers almost all repairs for damages but does not cover intentional damage. <sup>182</sup>	a Chromebook is issued. <sup>183</sup> Loaner Chromebooks may be issued to students when their device is being repaired. It is unclear whether fines prevent a student from receiving a new device.
St. Louis Public	Unavailable. <sup>184</sup>	Unavailable.	Unavailable.	Unavailable.
Union	According to the One-to-World Learning Initiative Handbook, last updated before the pandemic, accidental damage could cost a family up to \$75, even with the	All students and parents/guardians are required to sign the Union R-XI School District Chromebook student pledge, the Chromebook insurance agreement, and the technology usage agreement <i>before a</i>	Appears to be the same policy as the previous year.	Appears to be the same policy as the previous year.

<sup>181</sup> *1:1 Program Handbook*, ROCKWOOD SCH. DIST. 10 (2021). “Damaged or lost Chromebooks will be assessed like other district-owned items that students use (such as textbooks, band equipment, uniforms). In such situations, investigations are conducted by school officials to determine if the student is at fault and if a fine will be imposed. The original Chromebook purchase price is \$250. Replacement costs for screens are generally around \$50. The cost for a keyboard replacement is normally approximately \$65.” *Id.* at 12.

<sup>182</sup> *Letter from Deborah Ketring to Legal Services of Eastern Missouri*, ROCKWOOD SCH. DIST (Nov. 17, 2021).

<sup>183</sup> *1:1 Program Handbook*, *supra* note 180, at 3.

<sup>184</sup> We have yet to receive records from St. Louis Public Schools in response to our April 2021 request under the Missouri Sunshine Law. In the interest of avoiding misinformation, we have decided not to speculate about the district’s policies in this white paper.

	<p>mandatory (and unlawful) upfront “insurance” charge of \$20. Intentional misuse or negligence results in “[a]ll costs of whatever kind that are associated with replacing or repairing” the device, and in instances of loss or theft, the family may be liable for the “possible replacement cost pending review and investigation.”<sup>185</sup></p>	<p>Chromebook is issued.<sup>186</sup> If students have outstanding balances or fines, a Chromebook won't be issued until the debts have been resolved.</p>		
<p>University City</p>	<p>According to Board Policy EHB-AP(3), students can be charged for loss or damage to technology resources, not to exceed \$300. Replacement fees for a lost Chromebook are \$300, with lost chargers costing \$40 to replace and damage to</p>	<p>The district had specific processes for high school, middle school, and elementary school students to follow, but at all grade levels, students were allowed to exchange their non-working device for a working Chromebook without paying the fee.<sup>188</sup></p>	<p>Appears to be the same policy as the previous year.</p>	<p>Appears to be the same policy as the previous year.</p>

<sup>185</sup> *One-to-World Learning Initiative Handbook*, UNION SCH. DIST. 17 (Sept. 18, 2018).

<sup>186</sup> *Id.* at 5.

<sup>188</sup> *2020-2021 Technology Processes*, UNIV. CITY SCH. DIST.

	<p>devices ranging from \$30-\$150 for families.<sup>187</sup></p> <p>The district also utilized tablets, which cost \$150 to replace.</p>			
Webster Groves	<p>Parents/guardians are responsible for charges for lost or damaged devices.<sup>189</sup> “The decision to assess a charge, as well as the amount of any charge, is at the sole discretion of the District but will not be greater than the full replacement value of the [e]quipment.”</p> <p>The district’s consent form says that it has an opt-in insurance plan for device damage that comes at no cost to families. However, a consent form from Hixson Middle School states that insurance is \$18.<sup>190</sup> Families who cannot afford this insurance fee</p>	<p>Students must have “good citizenship” and at least 90% attendance in order to receive a device initially. At least at Hixson Middle School, students receive a loaner device to use at school while their device is being repaired. If a device is not turned in at the end of the school year, the district will file a theft report with local law enforcement.</p>	<p>Appears to be the same policy as the previous year. However, a report showing current fees in fall 2021 indicates that students are being charged up to \$60 for insurance and up to \$250 for replacement costs.</p>	<p>Appears to be the same policy as the previous year.</p>

<sup>187</sup> Parent Chromebook Information Sheet, UNIV. CITY SCH. DIST.

<sup>189</sup> Student Use Agreement for Electronic Equipment, WEBSTER GROVES SCH. DIST.

<sup>190</sup> Hixson Middle School Student Use Agreement for Electronic Equipment, WEBSTER GROVES SCH. DIST.

	can request assistance, and other families can donate \$18 so a family in need can have insurance coverage.			
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## Appendix 2: Mandatory Technology Agreements Across Districts

District	Agreement Type	Does the Technology Agreement Provide Notice of Potential Fees/Fines?	Sample Technology Agreement Language
East St. Louis (Illinois)	Compact signed by teacher, student, and parent/caregiver	No—district does not appear to charge fees/fines	“As a student and representative of School District 189, I will support my learning by...[t]aking care of the Chromebook and other school materials while at home.” <sup>191</sup>
KIPP Charter Schools	Online enrollment for insurance (mandatory to pay insurance or seek scholarship)	Yes, and translated versions of the agreement are available in Swahili, Spanish, Somali, and Arabic	“EVERY student must either accept the insurance or decline the insurance through the One2One portal.” <sup>192</sup>
Ritenour	Form (online and hard-copy versions) signed by parent and student	Not in exact terms	“I agree to be responsible for any unauthorized costs incurred or damages inflicted to the school as a result of my child’s use of technology.” Parent/guardian must check or initial next to one of three statements, including giving permission for their child to use the school’s technology resources, giving partial permission, and withholding permission. <sup>193</sup>
Riverview Gardens	Form signed by parent/guardian and student + “Equipment Contract” signed by parent/guardian	Yes	“Students and their parents/guardians accept full responsibility for the equipment and will reimburse RGSD for any damages, including loss or theft.” <sup>194</sup>

<sup>191</sup> *District Return to Learn Plan*, *supra* note 164, at 53; *District Return to Learn Plan SY2021-2022 30*, EAST ST. LOUIS SCH. DIST. (Aug. 4, 2021).

<sup>192</sup> *2021-2022 Chromebook Technology Insurance Policy*, *supra* note 170.

<sup>193</sup> *Return to School Parental Agreement for Student Use of Technology*, RITENOUR SCH. DIST. (2021).

<sup>194</sup> *Riverview Gardens’ Student Technology Equipment Use Agreement*, RIVERVIEW GARDENS SCH. DIST. (2021).

Rockwood	Form signed by parent and student	Not in exact terms	“The student and parent/guardian named below agree to assume full responsibility for the safety, care and maintenance of the Chromebook...damaged or lost Chromebooks will be reviewed and when deemed appropriate a fee could be charged on a case-by-case basis.” <sup>195</sup>
St. Louis Public	Hard-copy form signed by parent and student	Yes	“Students and their parents/guardians accept full responsibility for the equipment and will reimburse SLPS for any damages, including loss or theft. I understand that if the equipment is stolen, my personal insurance will cover the cost, or I will assume the financial responsibility.” <sup>196</sup>
Union	Separate forms for parents and students, last revised May 2009	Not in exact terms	“I agree to be responsible for any unauthorized costs arising from use of the district’s technology resources by my child. I agree to be responsible for any damages caused by my child’s misuse of district technology.” <sup>197</sup>
University City	Electronic form with links to related policies and yes/no checkbox next to statement of agreement	Not in exact terms	“I agree to be responsible for any unauthorized costs arising from my student’s use of the District’s technology resources. I understand that I am responsible for any damages incurred by my student resulting from malicious acts...and/or deliberate misuse of the district’s technology resources.” <sup>198</sup>
Webster Groves	Two-page contract with signatures by student and parent; options to accept or decline insurance coverage	Not in exact terms	“Parent(s)/guardian(s) are responsible for their child’s use of the [e]quipment, including any damage to or loss of the equipment.” <sup>199</sup>

<sup>195</sup> *Rockwood R-VI School District 1:1 Program Agreement*, ROCKWOOD SCH. DIST. (2021).

<sup>196</sup> *St. Louis Public Schools Student Technology Equipment Use Agreement*, ST. LOUIS PUB. SCHS. (April 2020).

<sup>197</sup> *EHB-AFI, Technology Usage (Parent/Guardian Technology Agreement)*, UNION SCH. DIST. (2012).

<sup>198</sup> *Acceptable Use Internet and Resources Agreement 2122*, UNIV. CITY SCH. DIST. (2021).

<sup>199</sup> *Student Use Agreement for Electronic Equipment*, WEBSTER GROVES SCH. DIST.