



ATTORNEY GENERAL OF MISSOURI  
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Springfield Public Schools  
Board of Education  
1359 E. St. Louis  
Springfield, MO 65802  
*Sent via email to: glathan@spsmail.org*

Dear Dr. Lathan:

It has come to my attention that the Springfield Public School's Board of Education is scheduled to vote on a policy revision this evening that would adopt incorrect guidance received from the United States Department of Agriculture (USDA). According to public statements, there is concern among some members of the school board that failure to adopt this policy could put up to \$7 million dollars of free and reduced lunch funding for kids in Springfield at risk.

It is clear that the Biden Administration, is willing to threaten school children and use them as pawns in its wider culture war. I am here to say that such divisiveness and fearmongering has no place in our state. Even the suggestion that a child would be denied a school lunch based on any classification of race, religion, national origin or sex, is absurd. Yet federal bureaucrats at the USDA are apparently willing to engage in such tactics of fear and manipulation to arrive at their desired outcome.

My office recently sued the USDA over this policy in federal court. In that case, the court clarified that the prohibition against sex-based discrimination under SNAP is not a "command" to enact any policy or regulation. *Tennessee v. United States Dep't of Agric.*, No. 3:22-CV-257, 2023 WL 3048342, at \*23 (E.D. Tenn. Mar. 29, 2023). Therefore, the published USDA guidance does not command that school districts adopt a policy or redefine "sex" to include gender identity or sexual orientation. The Biden Administration is basing its flawed guidance on a threat that in order for schools to feed their children, they must acquiesce to a radical sexual ideology.

With its current guidance, the USDA misinterprets the decision by the United States Supreme Court in *Bostock v. Clayton Cnty., Georgia*. In *Bostock*, the

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issue before the Court was wrongful termination of an employee – not school lunches. In fact, the Supreme Court went out of its way to limit its holding, responding specifically to those who “worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination.” *Bostock v. Clayton Cnty., Georgia*, 140 S. Ct. 1731, 1753 (2020). The Supreme Court rejected attempts to use its holding for other purposes, further stating, “But none of these other laws are before us; we have not had the benefit of adversarial testing about the meaning of their terms, and we do not prejudge any such question today. Under Title VII, too, we do not purport to address bathrooms, locker rooms, or anything else of the kind.” *Id* at 1753.

I appreciate the willingness of citizens to give of their time to serve their community, including serving on a local school board. It concerns me greatly that you are being pushed to adopt policies with no basis in the law. Please know that as the Attorney General of the State of Missouri, I am committed to defend the laws as passed by our elected representatives and to protect the citizens of our state from edicts from bureaucrats in Washington. I will not allow those bureaucrats to hold our children hostage in order to force their radical agenda on Missouri’s schools.

Respectfully,



**ANDREW BAILEY**  
Missouri Attorney General