

Jennifer A. English
268 Hosmer Street
Marlborough, MA 01752

April 8, 2016

Shawn A. Williams
Supervisor of Records
Office of the State Secretary
One Ashburton Place, Room 1719
Boston, MA 02108

Dear Mr. Williams:

This is an appeal of the revised response of Richard P. Langlois to my request for a copy of the following records:

Settlement agreements entered into by Marlborough Public School District with parents and guardians, from January 1, 2010 through January 30, 2016, relative to the provision of special education services and/or educational placement(s) for students with disabilities, redacted of all personally identifying information

This request was the subject of a previous appeal. See SPR16/182 Determination of the Supervisor of Records (March 23, 2016). I have received Mr. Langlois's revised response (Attachment A), and am appealing his revised response. My initial records request is included as Attachment B.

In his revised response, Mr. Langolis stated that the cost estimate includes, "legal review to ensure proper segregation and application of exemptions relative to those documents ... at 2.0 (approximately 1 minute per page) hours at \$215 per hour."

Responding to public records requests is the responsibility of a public records custodian. Nothing in Public Records Law or its Regulations provides that a requestor of public records bear the financial burden of ensuring a custodian's compliance. More specifically, proper segregation and the application of available exemptions to public records requests is the responsibility of a public records custodian. Mr. Langolis should revise his fee estimate in a manner consistent with the Public Records Law and its Regulations.

Further, Mr. Langolis states that, "the District will withhold those documents or portions of those documents that are exempt from disclosure..." If Mr. Langolis is withholding a record in its entirety, he should explain with specificity why each withheld record is exempt from

disclosure. I request that Mr. Langolis be required to identify any record that is withheld in its entirety rather than provided with redactions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer A. English", with a long horizontal line extending to the right.

Jennifer A. English

508-395-4693



Marlborough Public Schools

District Education Center

Richard P. Langlois • Superintendent
17 Washington Street, Marlborough, MA 01752
Phone (508) 460-3509, ext. 10100 • rlanglois@mps-edu.org

March 31, 2016

VIA CERTIFIED MAIL

Jennifer A. English
268 Hosmer Street
Marlborough, MA 01752

Re: Public Records Request

Dear Ms. English,

On or about February 22, 2016, this office received a request from you for certain records under the Massachusetts Public Records law. In your correspondence, you requested the following records:

“Settlement agreements entered into by the Marlborough Public School District with parents and guardians, from January 1, 2010 through January 30, 2016, relative to the provision of special education placement(s) for students with disabilities, redacted of all personally identifiable information.”

This office initially responded to your request on March 1, 2016 by providing you with an estimate for the cost of producing the records you have requested. On March 23, 2016, the District was notified that you appealed that estimate to the Supervisor of Records for the Commonwealth of Massachusetts. Also on or around March 23, 2016, the Supervisor of Records ordered the District to provide you “with a revised written, good faith estimate” in response to your request.

In compliance with that order, the District will provide the requested documents or portions of those documents that are not specifically or by necessary implication exempted by statute. M.G.L. c. 4, § 7(26)(a); G.L. c. 71, §§ 34D, 34E; 20 U.S.C. §1232g, and the Individuals with Disabilities Education Act (“IDEA”). Additionally, the District will withhold those documents or portions of those documents that are exempt from disclosure because they contain material, “relating to a specifically named individual the disclosure of which may constitute an unwarranted invasion of privacy.” G.L. c. 4, § 7(26)(c). Specifically, the District will redact the documents responsive to your request to ensure the removal of any personally identifiable information so that the confidentiality of students is protected in a manner consistent with the above-referenced statutes and regulations as well as *Champa v. Weston Public Schools & Others*, 473 Mass. 86 (2015).

The District, in good faith, estimates the following costs associated with the searching, redacting, segregating, photocopying, and refileing of such written communications to be a total cost of \$602.00.

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Marlborough Public Schools

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Richard P. Langlois • Superintendent
17 Washington Street, Marlborough, MA 01752
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My office estimates that there are approximately thirteen (13) responsive documents that are estimated to each be approximately ten (10) pages in length. The costs relating to your request, including the cost of searching for individual Settlement Agreements ("Agreements"), redaction of all personally identifiable information contained therein, and individual review by the District's attorneys of each of those Agreements to be as follows: 1 hour (5 minutes per record) for locating, copying, and refiling those records and 6 hours (3 minutes per page) for redacting the personally identifiable information from the Agreements, which is required in accordance with the legal exemptions above, at a rate of \$24.60 per hourly wage of District Support Staff, totaling \$172.20. The estimated time of legal review to ensure proper segregation and application of exemptions relative to those documents is estimated at 2.0 (approximately 1 minute per page) hours at \$215 per hour. The District in good faith, estimates the following costs associated with the searching, redacting, segregating, photocopying, and refiling of such records to be a total cost of \$602.00.

The estimate above is based on the lowest hourly rate of those capable of performing the work and – as set forth in detail above – includes work to be performed by District staff, as well as outside counsel. Please also note that this detailed good faith estimate does not include the per page cost of reproducing these records. Please be advised that the actual cost of producing the record might vary once the Marlborough Public Schools begins preparing the record. The District will commence gathering documents responsive to your request once the estimated fee is paid. The above estimate is due, in part, to the broad scope of your request. If you elect to narrow the scope of your request, please notify the District in writing and the District will provide you with an updated cost estimate for any such revised request.

You may appeal this decision in writing within ninety (90) days to the Supervisor of Public Records at the Office of the State Secretary, One Ashburton Place, Room 1719, Boston, Massachusetts, 02108.
Thank you for your attention to this matter.

Very truly yours,

Richard P. Langlois
Superintendent of Marlborough Public Schools

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Jennifer A. English
268 Hosmer Street
Marlborough, MA 01752

Richard P. Langolis
Superintendent of Marlborough Public Schools
17 Washington Street
Marlborough, MA 01752

February 4, 2016

Dear Superintendent Langolis,

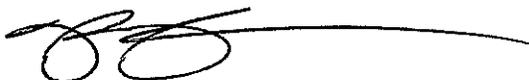
This request is being made pursuant to General Laws c. 66 §10, of the Massachusetts public records law (public records law). I am requesting that I be provided with a copy of the following records:

Settlement agreements entered into by Marlborough Public School District with parents and guardians, from January 1, 2010 through January 30, 2016, relative to the provision of special education services and/or educational placement(s) for students with disabilities, redacted of all personally identifying information

I recognize that you may charge reasonable costs for copies. If you expect costs to exceed \$10.00, please provide a detailed fee estimate. The public records law requires you to provide me with a written response within 10 calendar days. If you cannot comply with my request, you are statutorily required to provide an explanation in writing.

As you are aware, an October 23, 2015, Massachusetts Supreme Judicial Court ruling makes available settlement agreements between a public school and the parents or guardians of a public school student who requires special education services. (SJC-11838 MICHAEL CHAMPA v. WESTON PUBLIC SCHOOLS & others.) Per the ruling, these settlement agreements, redacted of personally identifying information, must be disclosed as public records. Following the SJC ruling, Michael Champa requested and received redacted copies of Weston Public School's special education settlement agreements.

Best regards,


Jennifer A. English