



SOUTHERN BERKSHIRE REGIONAL SCHOOL DISTRICT

November 8, 2016

Jorge Manuel Teixeira
68 Priest Street
Hudson, MA 01749
infoshinesunlight@gmail.com

David B. Hastings

Superintendent

Christine Regan

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Vito Valentini

Re: October 16, 2016 Public Records Request to the Southern Berkshire Regional School District (Massachusetts)

Dear Mr. Teixeira:

The Southern Berkshire Regional School District (the "District") is in receipt of your correspondence dated October 16, 2016 requesting the following documents:

Settlement agreements entered into by your School District with parents and guardians, from January 1, 2011 through today, relative to the provision of special education services and/or educational placement(s) for students with disabilities, redacted of all personally identifying information.

This response supplements our initial correspondence to you dated October 19, 2016.

As you know, state law and regulations permit a public agency to charge fees for segregation, search and redaction time. *See*, 950 CMR 32.06. These regulations also require that the District provide you with a written, good faith estimate of the applicable copying, search time, segregation and redaction fees to be incurred prior to complying with the public records request where the total costs are estimated to exceed ten dollars.

Our initial review indicates that there is approximately one document that would be responsive to your request. In addition, those documents all contain information that is or would be exempt from disclosure pursuant to M.G.L. c 4, §7 (26) (a), regarding information which is specifically or by necessary implication exempted from disclosure by statute or other law and/or M.G.L. c 4, §7 (26) (c), regarding information the disclosure of which would be an invasion of privacy. Please also note that exempt information pursuant to the Massachusetts student records law (M.G.L. c. 71, §34D and 603 CMR 23.00 et. seq.) and the federal education records law (20 U.S.C. § 1232g) includes not only a student's name but also other information from which a person with knowledge of the circumstances would be able to identify the student. As such, each page of each settlement agreement will have to be closely reviewed and analyzed in order to make determinations as to whether particular information should be redacted.

Given the sensitive nature of the information contained in the documents, the impact that disclosure of exempt information would have on the privacy rights of the particular student who is the subject of a particular settlement agreement and on student records laws and privacy rights generally, and the fine distinctions that must be made as to whether the disclosure of particular information would violate those privacy rights of that particular student and is exempt, it is our belief that the lowest paid person who could perform the task of deciding which information meets the legal criteria for redaction in this very sensitive area of student privacy rights, is the SPED Director or the District's Superintendent. As such, while portions of the review and redaction will be conducted by an administrative assistant, the SPED Director or the District's Superintendent will participate in the redaction process.

Segregation and Redaction Time:

One hour by an administrative assistant to segregate the responsive documents and review and redact exempt information from the responsive documents at an hourly rate of \$28.00, and one hour for review by a senior administrator to protect the privacy rights of the subject student by ensuring that all exempt materials have been redacted, at an hourly rate of \$28.00, for a total cost in segregation and redaction time of \$56.00. This estimate does not include the additional hours that we have spent searching student files for settlement agreements which far exceeds two hours. We have decided not to include those hours in the cost estimate that you must pay prior to receiving the requested documents.

Copying Costs: The statute and regulations permit a charge of \$.05 per page for paper copies and \$.05 per page for computer printout copies. Once we have engaged in the search and identified the number of pages involved, we will be able to provide a good faith estimate of potential copying charges.

Thus the total good faith estimate of the cost for labor to comply with your request is \$56.40.

Please note that it is impossible to determine the exact amount of time involved in any such process and if the actual cost to comply with your request by providing the information or documents is greater than the stated figure, the District may require an additional payment prior to forwarding the responsive documents.

If you would like the District to commence the process, kindly forward to the Superintendent's office a bank or cashier's check in the amount of \$56.40 payable to the Southern Berkshire Regional School District with a notation that it is for the October 16, 2016 Public Records Request of Jorge Manuel Teixeira.

After completion of the process, if the actual cost to comply with your request is greater than the stated figure, the District reserves its right to require an additional payment prior to forwarding the responsive documents. Similarly, if the actual cost to comply with your request is less than the stated figure, the District will refund any overpayment in due course.

Finally, be advised that pursuant to 950 CMR 32.08(1) and M.G.L. c. 66, §10(b), you have the right to appeal or seek redress of any denial of your public records request through an administrative process provided by the Supervisor of Public Records, within the Division of Public Records of the Office of the Secretary of State for the Commonwealth of Massachusetts.

Sincerely,



David B. Hastings
Superintendent

cc: Sandra Hubbard

Paige Tobin, Murphy, Lamere & Murphy, P.C.