



MONTCLAIR PUBLIC SCHOOLS

BUSINESS OFFICE

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EMIDIO D'ANDREA

Business Administrator

December 23, 2020

Via Email (opra+request-18677-4f8f2785@requests.opramachine.com)

Sunlight Policy Center

Re: OPRA request dated December 15, 2020

Dear Sir/Madam:

You recently requested documents from the Montclair Board of Education ("Board" or "District") pursuant to the Open Public Records Act ("OPRA") on December 15, 2020. The time in which a public entity has to respond to an OPRA request begins to run the day after the custodian of records receives such a request. Your request was received by the Board on December 15, 2020.

Under normal circumstances, a public entity typically has seven (7) business days to respond to such a request. However, on March 20th, Governor of New Jersey, Phillip Murphy, signed A3849/S2302. Same modifies N.J.S.A. 47:1A-5, to provide government entities additional time to respond to OPRA requests during a State of Emergency or other public health emergency, including the current COVID-19 outbreak.

At this time, the following is provided in response to your OPRA request:

- 1. All communications between the Montclair Education Association (MEA) and/or President Petal Robertson and the Montclair Board of Education and/or President Latifah Jannah and/or Vice President Priscilla Church regarding the "Charles Bullock School" and/or the "Applied Behavior Analysis program" for August, September and October 2020.**

There are two sets of documents responsive to your request. The first are emails/email thread dated October 19, 2020 to Board members regarding specific District students. The other is an email dated October 14, 2020 enclosing a letter dated October 14, 2020 from the MEA to Board members.

- At this time, the October 19, 2020 emails/email thread responsive to your request reveals personally identifiable information regarding specific District students.

These documents are not considered government records under OPRA and are not subject to disclosure under OPRA because such documents reveal personally identifiable student information. See 20 U.S.C.A. §1232g; 34 CFR Part 99.

“A government record shall not include the following information which is deemed to be confidential for the purpose of P.L. 1963 (C.47:1A-1 et seq.) as amended and supplemented:” “information concerning student records or grievance or disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.” N.J.S.A. 47:1A-1.1. Moreover, the Family and Educational Rights and Privacy Act (“FERPA”), prohibits schools from disclosing a student’s records, without first obtaining parental consent. Notably, FERPA prohibits the release of any “personally identifiable information,” which includes any information which “alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community...to identify the student with reasonable certainty.” 34 C.F.R. 99.3. Accordingly, the District may not release information which contains personally identifiable information regarding a specific student.

- At this time, the October 14, 2020 document responsive to your request was generated on behalf of the MEA in connection with negotiations and, therefore, is not subject to disclosure under OPRA.

This document is not considered a government record under OPRA and not subject to disclosure under OPRA because such document was generated on behalf of public employees in connection with collective negotiations. See N.J.S.A. 47:1A-1.1.

N.J.S.A. 47:1A-1.1 exempts from disclosure “[i]nformation generated by or on behalf of public employers or public employees in connection with: ... [c]ollective negotiations, including documents and statements of strategy or negotiating position.”

If you have any questions, please feel free to contact me.

Thank you.

Sincerely,



Emidio D’Andrea
Business Administrator