



FREEHOLD REGIONAL HIGH SCHOOL DISTRICT

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September 21, 2021

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Pamela Richmond

Dear Ms. Richmond.

This letter is in response to your two separate OPRA Requested dated September 6, 2021, and your additional OPRA Request dated September 7, 2021. Due to the fact that the Requests dated September 6, 2021 were received after business hours, and the fact that the District was closed on September 6 and September 7, your requests were not received until Wednesday, September 8, 2021. In addition, the District was closed on Thursday, September 16, 2021 in observation of the Yom Kippur Holiday. As such, the seventh business day by which the Board must respond to your Requests noted above is Tuesday, September 21, 2021.

OPRA defines a "government record" of a public entity as "any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business ..." N.J.S.A. 47:1A-1.1. Accordingly, the Board is required to produce only those records which it maintains in the official course of business and which are not otherwise exempt from production. Pursuant to the definition of a government record, a public entity is not required by OPRA to research information and/or create records that do not exist in response to OPRA requests. See e.g., Mag Entertainment, LLC v. Division of Alcoholic Beverage Control, 375 N.J. Super. 537 (App. Div. 2005).

Your first Request dated September 6, 2021 sought the following:

1. *How much did FRHSD receive in Esser Funds*
2. *What was the Esser Funds spent on*

Response: Please be advised that an OPRA request is a vehicle for accessing government records rather than for the purposes of submitting questions and/or requests for information. As such, the Request could be denied as improper. However, in the spirit of OPRA, the Board's records relating to the allocation of ESSER funding has been enclosed.

Your second Request dated September 6, 2021 sought the following:

Please provide me with the enrollment numbers

For the following years

2018

2019

2020

2021

Response: Please be advised that an OPRA request is a vehicle for accessing government records rather than for the purposes of submitting questions and/or requests for information. As such, the Request could be denied as improper. However, in the spirit of OPRA, the Board's official enrollment for the school years in question is available via the following link:
<https://www.nj.gov/education/doedata/enr/index.shtml>

Please note that the official enrollment for the current 2021-2022 school year will not be completed until after October 15, 2021.

Your Request dated September 7, 2021 the following

1. Full copy of internal policy to review mask exemptions requests

Response: The Board does not have any documents that are responsive to this request. By way of further explanation, Governor Murphy has issued Executive Orders 251 and 253, which require, among other requirements, that masks are to be worn at all times in all public and non-public schools in the State of New Jersey unless one of the exceptions noted in those Orders is present. Throughout this ongoing pandemic, the District has consistently followed State and Local guidance as well as specific mandates, and will continue to do so. In addition, any review of an individual request for an exemption to the mask mandates set for the Executive Orders 251 and 253, have been handled and will continue to be handled on a case-by-case basis and in a manner similar to applicable laws and Board Policies regarding student confidentiality/privacy.

2. Contract between reviewing physician and school, including any guidance from District to physician

Response: The Board's contracts with its School Physicians are enclosed. The Board does not have any other documents that are responsive to this request.

3. Biography/CV of physician reviewing my kids records

Response: The Board does not have any documents that are responsive to this request.

4. Notes, emails, calls, conclusions, letters exchanged between District and School Physician

Response: Please be advised that an OPRA request is a vehicle for accessing government records rather than for the purposes of submitting questions and/or wholesale requests for information. Further, the GRC has previously established that for an OPRA request seeking emails and/or other written communications to be valid the request must contain: (1) the content

and/or subject of the e-mail or correspondence, (2) the specific date or range of dates during which the e-mail/correspondence was transmitted, and (3) a valid e-mail/correspondence request must identify the sender and/or the recipient thereof.

Here, the Request fails to identify any specific sender, as well as any specific content and/or subject matter, and rather impermissibly appears to seek “all notes, emails, calls, conclusions, letters exchanged between District and School Physician.” In this regard, since your request fails to identify a specific government record, we are unable to respond to the request, and it is therefore denied. Furthermore, any records relating a review of a request would constitute advisory, consultive or deliberative material, and as such, would be exempt from disclosure. As a result, the request is denied.

5. Notes, emails, calls, conclusions, letters exchanged between District, School Physician and any released party on my initial exemption request

Response: Please be advised that an OPRA request is a vehicle for accessing government records rather than for the purposes of submitting questions and/or wholesale requests for information. Further, the GRC has previously established that for an OPRA request seeking emails and/or other written communications to be valid the request must contain: (1) the content and/or subject of the e-mail or correspondence, (2) the specific date or range of dates during which the e-mail/correspondence was transmitted, and (3) a valid e-mail/correspondence request must identify the sender and/or the recipient thereof.

Here, the Request fails to identify any specific sender, as well as any specific content and/or subject matter, and rather impermissibly appears to seek “all notes, emails, calls, conclusions, letters exchanged between District and School Physician and any released party on my initial exemption request” In this regard, since your request fails to identify a specific government record, we are unable to respond to the request, and it is therefore denied. Furthermore, any records relating to the individual students is protected from disclosure under both FERPA and the New Jersey pupil record regulations, and can only be provided to authorized persons. Since you have not provided any documentation to demonstrate that you are an authorized person for the release of this individual student performance information, the request is denied.

6. Analysis of number of exemption requests submitted to date, with delineation between those approved versus those denied.

Response: The Board does not have any documents that are responsive to this request.

7. Full list of all vaccinated vs. unvaccinated teachers, staff, contractors and all personnel

Response: This request seeks information that would constitute personnel records that are not required to be disclosed under OPRA. In addition, this request is seeking records that would disclose information related to an individual’s medical history, which is also exempt from disclosure under OPRA. As a result, the request is denied.

8. Insurance contact, policy number, any bond agency insuring the District and Board of Education from liability for personal injuries of a student in effect from September 2020 to date.

Response: A copy of the Board's applicable insurance policies for personal injuries in effect from September 2020 are enclosed.

9. Data that provides proof in which masks benefit the children in our district physically and medically.

Response: The Board does not have any documents that are responsive to this request. By way of further explanation, Governor Murphy has issued Executive Orders 251 and 253, which require, among other requirements, that masks are to be worn at all times in all public and non-public schools in the State of New Jersey unless one of the exceptions noted in those Orders is present. Throughout this ongoing pandemic, the District has consistently followed State and Local guidance as well as specific mandates, and will continue to do so.

10. Proof that masks cause no harm to the students emotionally, mentally, and physically.

Response: Please be advised that an OPRA request is a vehicle for accessing government records rather than for the purposes of submitting questions and/or wholesale requests for information. In this regard, since your request fails to identify a specific government record, we are unable to respond to the request, and it is therefore denied. By way of further explanation, Governor Murphy has issued Executive Orders 251 and 253, which require, among other requirements, that masks are to be worn at all times in all public and non-public schools in the State of New Jersey unless one of the exceptions noted in those Orders is present. Throughout this ongoing pandemic, the District has consistently followed State and Local guidance as well as specific mandates, and will continue to do so.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the District to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ 08625, or by e-mail at grc@dca.state.nj.us, or at their website at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SB', followed by a horizontal line.

Sean Boyce, CPA
Assistant Superintendent for Business Administration/Board Secretary
Records Custodian