

PINELANDS REGIONAL SCHOOL DISTRICT

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MELISSA MCCOOLEY, Ed.D.
Superintendent

NICHOLAS K. BROWN
Business Administrator/Board Secretary

November 11, 2020

Joanna Bartlett

Via email: opra+request-16737-8b857555@requests.opramachine.com

Mrs. Bartlett,

The Pinelands Board of Education and official Records Custodian, Nick Brown received your OPRA request on September 15, 2020. On September 24, 2020, you were advised of the need for an extension of your September 24, 2020 request, until October 23, 2020.

Your OPRA request sought access to the following:

"All weekly superintendent updates to the school board in any and all forms including emails and media. Please send me these updates from 01/01/2020 thru the most current update. "

On October 26, 2020, I received another almost identical OPRA request from you, wherein you stated: This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested: Superintendent Weekly Updates to the Pinelands Board of Education:

The superintendent has mentioned these frequently in her board meetings. I am well aware that most of these are probably email. I am requesting the emails to be forwarded to me. I am requesting them from 7/1/2020 through present day. Some of them most likely include videos because the superintendent communicates frequently to parents this way. Please make sure these are included. Again, I am only requesting emails to be forwarded to me. This requires no extra charge or training of anyone on computer programs. Thanks for your time

As I previously informed you on October 23, 2020, OPRA allows custodians to seek extensions of time pursuant to N.J.S.A. 47:1A-5.i. Specifically, OPRA states that, "the requestor shall be advised by the custodian when the record can be made available. If the record is not made available by that time, access shall be deemed denied." Moreover, in the midst of the COVID-19 crisis, the State amended OPRA to include the following provision:

During a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or state of local disaster emergency, ***the deadlines by which to respond to a request for, or grant or deny access to, a government record under paragraph (1) of this subsection or subsection e. of this section shall not apply, provided, however, that the custodian of a government record shall make a reasonable effort, as the circumstances permit, to respond to a request for access to a government record within seven business days or as soon as possible thereafter.*** N.J.S.A. 47:1A-5(i)(2)

The Government Records Council also released a special statement regarding the above amendment. The statement specifically addresses a custodian's "reasonable effort" to respond to a records request as follows:

In furtherance of a custodian's "reasonable effort," the GRC notes that ***an available response option is to take extensions of time as needed.*** Specifically, OPRA requires a custodian to respond in writing within the statutorily mandated time frame stating that an extension until a date certain is necessary....***This is notwithstanding whether a requestor objects to an extension of time.***

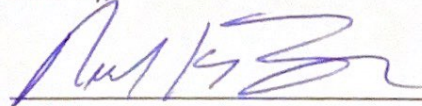
As per the above, the custodian of records is entitled to an extension after notifying you of the need within the statutorily mandated timeframe and providing you with an anticipated deadline date upon which the records will be provided. While we have taken the time during first extension to successfully search and retrieved the documents, videos, and other information potentially responsive to your request, your request requires an additional extension of time until December 4, 2020 to complete the processing of your request. The District is working with our IT professionals, who are also acting in a support role for virtual and hybrid learning on a daily basis, to obtain software which will allow us to appropriately redact the videos that we believe are responsive to your request. We also anticipate the need for a staff member with confidential clearance to be trained in using said software so that they can appropriately redact same, along with taking the time to redact any other documents which may be responsive to your request. This is going to cause an additional delay due to the additional strains placed on our clerical staff as a result of COVID-19.

Contrary to your assertion that e-mails and videos can simply be provided or forwarded, said e-mails and videos contain confidential information, not subject to disclosure pursuant to OPRA. As such, each video and e-mail must be reviewed for said confidential information, and redacted appropriately. This task requires training in both what is and is not subject to OPRA, as well as, how to utilize the redaction software. Additionally, making said redactions is a time consuming process.

To that end, as previously indicated, please be advised, that the District may notify you of a special service charge for the time necessary to make any required redactions and any possible format reproduction. OPRA allows a custodian to apply a special service charge "whenever the nature, format, manner of collation, or volume of a government record is such that the record cannot be reproduced by ordinary document copying equipment in ordinary business size or involves an extraordinary expenditure of time and effort to accommodate the request..." N.J.S.A. 47:1A-5(c). Should the records custodian determine that any request falls within the confines of this provision, the records custodian is entitled to apply a special service charge in addition to the actual cost of duplicating the record. We will notify you of the anticipated service charge as soon as we determine the amount of time necessary to perform the redactions.

Thank you for your patience and understanding during this difficult time.

Sincerely,



Nicholas K. Brown
Board Business Administrator and Custodian of Records
Pinelands Regional Board of Education