



Back

Request Number 2024-0176

Request Details

Request Submitted	4/23/2024 8:00:00 AM
Requester Name	Malden NewsNetwork
Requested Department	School
Request Content	<p>> Please provide email (with attachments), text message, or other record CREATED by MPS Superintendent Noriega-Murphy from 7/1/21 to 7/1/22</p> <p>> Where the subject, body, description, or other identifying information includes any of the following: audit, auditing, audits, auditor, "financial data", "financial accounting system", "End-of-Year Financial Report", EOYR, or "Financial Report", using any form of capitalization.</p> <p>> The only records sought pertain to FINANCIAL, FINANCE or ACCOUNTING matters, and not student, children, or attorney-related records.</p> <p>> Expected matching and responsive records should number no more than 50; anything beyond that we respectfully request "a records access officer shall, when appropriate, suggest a reasonable modification of the scope of the request or offer to assist the requester to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably."</p> <p>> This is a modification, simplification and replacement to an earlier request - #2024-0139 - which was a modification, simplification and replacement to an even earlier request - #2024-0102 - both withdrawn after costly fee petitions without any reasonable effort by RAO to offer such modification suggestions.</p> <p>> The RAO is aware any fee may not be designed to limit, deter or prevent access to requested public records</p> <p>> It is well known an RAO is encouraged to waive fees where disclosure is in the public interest, as it is in this case</p>
Request Document Attachment	No document submitted by requester.

Response Details

Response Date	5/7/2024 3:56:36 PM
Response Department	School
Response Content	<p>Please see attached two response documents. The records you seek were redacted, for several reasons. Non-responsive emails were also redacted in certain cases on a chain. First, these records contain the content of discussions between the District and its attorneys, for purpose of obtaining legal advice, which has not been shared with the public and is therefore protected by the attorney-client privilege. See Suffolk Constr. Co., Inc. v. Div. of Cap. Asset Mgmt., 449 Mass. 444 (2007) (governmental entity may assert attorney-client privilege to protect documents against disclosure where they contain communications between lawyer and client for purpose of obtaining legal advice). "The privilege enable[s] clients to make full disclosure to legal counsel of all relevant facts, no matter how embarrassing or damaging these facts might be, so that counsel may render fully informed legal advice." Suffolk, 449 Mass. At 449. The Guide to the Massachusetts Public Records Law states that "[s]egregation and redaction under the attorney-client privilege has also been found to be 'require [sic] by law.'" Accordingly, the records were redacted for information protected by the attorney-client privilege. Second, the records contain personal identifying information of public school students. In Champa v. Weston Public Schools, 473 Mass. 86 (2015), the Supreme Judicial Court held that a settlement agreement, between a public school district and the parents of a child who required special education services at an out-of-district private institution, was not subject to disclosure under the Public Records Law based upon Exemption (a) (which protects from disclosure records that are "... specifically or by necessary implication exempted from disclosure by statute," MGL c. 4, § 7(26)(a)). The SJC in Champa relied upon state and federal regulations mandating confidentiality of student/education records; ruled that the settlement agreement was an education record; and likewise noted, in footnote 8 of its opinion, that the school district's receipt of federal funds was conditioned on non-disclosure of education records. Accordingly, the settlement agreement was not a public record based upon Exemption (a). While Exemptions (a) exempted the agreement from the definition of a public record, the Champa court nonetheless ruled that the agreement should be redacted to protect personally identifying information; and that once redacted, the agreement shall be disclosed. The SJC likewise remanded the case to the trial court "... regarding the necessary and appropriate redactions of personally identifying information to be made ..." 473 Mass. at 98-99. Like the agreement at issue in Champa, communications contained personal identifying information of public school students who enjoy mandated confidentiality; indeed, such documents, if released, would reveal the identities, disabilities and information on their educational programming. Further, since legal counsel is counseling the District on the educational services and programming that is providing to students, especially special education students, these records should be deemed exempt from Public Records Law disclosure under Exemption (a) because, as supported by Champa, state and federal regulations compel the District to protect educational records from disclosure. Specifically, they are protected by the Federal Education Rights Privacy Act, Massachusetts General Law, Chapter 71, Section 34A to 34H, and 603 CMR 23.00 et. seq. Finally, the responsive records included personnel record information or private personal information which is not subject to disclosure pursuant to Exemption (c) to the Public Records Law. Exemption (c) applies to: personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy. G. L. c. 4, § 7(26)(c). In terms of the first clause of the privacy exemption, the Supreme Judicial Court has held that "[w]hile the precise contours of the legislative term "personnel [file] or information" may require case-by-case articulation, it includes, at a minimum, employment applications, employee work evaluations, disciplinary documentation, and promotion, demotion, or termination information pertaining to a particular employee. These constitute the core categories of personnel information that are 'useful in making employment decisions regarding an employee.'" Wakefield Teachers Ass'n v. School Comm. of Wakefield, 431 Mass. 792, 798 (2000). The second clause of the privacy exemption applies to requests for records that implicate privacy interests. Analysis under the second clause of Exemption (c) is subjective in nature and requires a balancing of the public's right to know against the relevant privacy interests at stake. Torres v. Attorney Gen., 391 Mass. 1, 9 (1984); Attorney Gen. v. Assistant Comm'r of the Real Property Dep't of Boston, 380 Mass. 623, 625 (1980). Records responsive to your request had personal email addresses and cell phone numbers that needed to be redacted.</p>
Response Document Attachment	<p>1371987v1docs-NOREDACTIONS.pdf</p> <p>REDACTED Emails.pdf</p>