



Ocean View School District

17200 Pinehurst Lane,
Huntington Beach, CA 92647
Tel: 714 847-2551
Fax: 714 847-1430
Web: www.ovsd.org

Superintendent
Carol Hansen, Ed. D.

Board Of Trustees
Gina Clayton-Tarvin, President
Jack C. Souders, Vice President
John Briscoe, Clerk
Joseph Gaglione, Member
Norm Westwell, Member

VIA E-MAIL

May 15, 2017

Joseph Turner
turner.acf@gmail.com

Dear Mr. Turner:

This correspondence will serve as the Ocean View School District's ("District") initial response to your May 4, 2017 Public Records Requests ("Requests"). Specifically, on that date you requested the following:

1. Provide electronic PDF copies of all emails sent via official district and personal email addresses by Ocean View School District staff, board members, and individuals contracted by the district that directly or indirectly mention Raymond Herrera going back to January 1, 2017.
2. Provide electronic PDF copies of any and all emails sent by Raymond Herrera to OVSD staff and/or board members.
3. Provide a log of any and all phone calls made by Raymond Herrera to OVSD staff and/or board members.
4. Provide the date of any and all police reports filed by Gina Clayton-Tarvin, any other school board member or staff concerning Raymond Herrera to any law enforcement agency.
5. Provide an itemization of staff time spent preparing and filing this restraining order against Raymond Herrera.
6. Provide an itemization of the financial costs associated with the filing of this restraining order against Raymond Herrera, including breakouts of staff time and wages, court filing fees, and any invoices submitted by any outside counsel that may have been contracted for this matter.
7. Provide the backup material concerning the Facebook activity alluded to in the OVSD press release depicting alleged threats and "likes" on Raymond Herrera's page.

Pursuant to the Public Records Act, the District is in the process of determining whether the records requested exist and whether they constitute disclosable public records. However, please understand that your Requests seek a wide variety of records and the District requires additional time to review its files in order to make a determination pursuant to *Government Code* § 6253. In light of the foregoing, the District is exercising its right, pursuant to *Government Code* § 6253(c), to extend its evaluation period by 14 additional days. The District will provide its determination as to whether your Requests seek copies of disclosable public records, the reasons therefor, and an estimated date when any disclosable records will be made available, on or before May 26, 2017.

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Furthermore, your Request No. 1 requires a review of voluminous staff communications to determine if any responsive records exist. It is well settled that “a governmental agency is only obliged to disclose public records that can be located with reasonable effort and cannot be subjected to a ‘limitless’ disclosure obligation.” *Bertoli v. City of Sebastopol* (2015) 233 Cal. App. 4th 353, 372, as modified (Jan. 30, 2015); *see, Fredericks v. Superior Court* (2015) 233 Cal.App.4th 209, 225 (“An agency may legitimately raise an objection that a request is overbroad or unduly burdensome, or that the documents cannot be located with reasonable effort.”); *Cal. Gov. Code* § 6253. In addition, according to *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 618, communications that are “primarily personal” are not public records. As currently framed, your Request No. 1 exceeds the bounds of a reasonable public records request and also appears to seek personal communications made by every individual employed by the District. In light of the foregoing, the District requests that you clarify Request No. 1 to comply with the Public Records Act. *Cal. Gov. Code* § 6253.1. (A public agency is entitled to a “focused and effective request that reasonably describes an identifiable record or records”).

Separately, Request Nos. 3, 5, and 6 appear to seek “logs” and other material that may not presently exist. While the District is reviewing its files to determine if these requests seek records currently in its possession and/or control, the District is not required to create records in response to a records request. *See, Government Code* §§6250 et seq.; *see also, Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1075 (Agency is not required to create records that do not exist.).

Finally, as you are aware, Request Nos. 1, 2, 3, 5, 6, and 7 seek electronic records. The State Legislature recognizes the sometimes prohibitive costs involved in extracting and compiling this type of electronic data. Accordingly, the Public Records Act allows for the requester to “bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record,” if the request would require data compilation, extraction, or programming to produce the record. *Government Code* § 6253.9(b).

This letter will serve as the District’s notice that producing the records requested may require such construction and/or programming. To the extent the District incurs any costs pursuant to § 6253.9, you will be notified of the same. Additionally, the District reserves the right to recover any direct costs associated with producing hard copies of disclosable records. *See, Government Code* § 6253.

If you have any questions or wish to narrow your request (which may allow the District to provide a faster response), please contact me.

Sincerely,



Carol Hansen, Ed.D.
Superintendent