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OUR FILE NUMBER:

005332.00168
1759957v1

February 28, 2011

VIA OVERNITE EXPRESS

Mr. Michael Chwe
422 26th Street
Santa Monica, CA 90402

Re: Public Records Request - Thomas Beltran

Dear Mr. Chwe:

In correspondence dated February 7, 2011, we informed you that the Santa Monica-Malibu Unified School District ("District") was reviewing your February 4, 2011, Public Records Act request, and that to the extent the requested records exist and are not exempt from disclosure, copies would be produced. You were further informed that the District would provide you with a written response to your request by February 28, 2011.

The purpose of this correspondence is to notify¹ you whether your request seeks disclosable public records which are in the possession of the District. Your request seeks "copies of all "public records" related to a March 2006 student complaint filed against former teacher Thomas Beltran.

Specifically, your letter includes the following requests for "public records":

1. I am requesting all public records, including but not limited to memoranda, reports, emails, and notes of conversations occurring in person and over telephone, which were produced by Asst. Supt. Matthews and any other person in the course of this research.
2. I am requesting all public records, including but not limited to memoranda, reports, emails, and notes of conversations occurring in person and over telephone, which were produced by Asst. Supt. Matthews and any other person in the course of this investigation.

¹ Government Code section 6253(c) indicates that within the specified time limits, the agency shall "determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor." (Emphasis added.)

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3. I am requesting all public records, including but not limited to memoranda, reports, emails, and notes of conversations occurring in person and over telephone, concerning these telephone calls made by Asst. Supt. Matthews and others to previous employees.

4. I am requesting all public records, which may include but are not limited to statements, written or oral, of Ms. Kathy Scott, Mr. Frank Costanzo, and any other Lincoln personnel, concerning how Lincoln handled the March 14, 2006 student complaint, including how the decision was made whether or not to inform the SMMUSD district offices of the complaint, and how the decision was made whether or not to keep copies of the complaint at Lincoln.

5. I am requesting all public records concerning, if Ms. Kathy Scott or any other Lincoln staff person reported the student's March 14, 2006 complaint to the SMMUSD district offices, whether district employees destroyed, misplaced, or otherwise diverted records of the complaint so that they were not included in Mr. Beltran's personnel file.

6. I am requesting copies of SMMUSD district policies concerning the record-keeping of district principals' outgoing correspondence, including whether copies of principals' letters to law enforcement authorities are customarily or are required to be kept in school offices or anywhere else in the district.

7. I am requesting all public records concerning whether Ms. Kathy Scott, Mr. Frank Costanzo, or any other Lincoln staff person destroyed or misplaced records of the student's March 14, 2006 complaint or otherwise prevented them from being kept in Lincoln school offices.

8. I am requesting all public records concerning the student's March 14, 2006 complaint itself, with all names of students redacted. In Ms. Scott's March 30, 2006 letter to Detective Gladden, she attached a copy of the student's written complaint. I am requesting the student's written complaint, with all student names redacted, as well as all other public records concerning the student's complaint.

District's Determination

The District has made the following determinations regarding your eight requests above:

- As to Request #1: Disclosable are being produced and are attached as Exhibit "A."
- As to Request #2: Disclosable are being produced and are attached as Exhibit "A."
- As to Request #3: No such records exist in the District's possession.
- As to Request #4: Disclosable are being produced and are attached as Exhibit "A."
- As to Request #5: No such records exist in the District's possession.

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- As to Request #6: Disclosable are being produced and are attached as Exhibit "A."
- As to Request #7: No such records exist in the District's possession.
- As to Request #8: The student's written complaint, referenced in the March 14, 2006, complaint, does not exist in the District's possession.

Please keep in mind that any records which are exempt from disclosure cannot be disclosed by the District. Specifically, Government Code section 6254 exempts particular records from the definition of a "public record" subject to disclosure. Section 6254(k) further makes clear that a category of exempt records includes "records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." Accordingly, Superintendent Cuneo has determined that any attorney-client privileged records are exempt from disclosure and will not be produced.

Should you have any further questions regarding this matter, please contact the undersigned.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Elizabeth Zamora-Mejia

EZM:mtw

Enclosure

cc: Tim Cuneo, Superintendent