Re: Freedom of Information Act (FOIA) Request Form

Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us>
Tue 7/25/2023 4:46 PM

To:David Cook [redacted]
Cc:Cartledge, Wendy B <Wendy.Cartledge@beaufort.k12.sc.us>;Rowland, Gillian C <Gillian.Rowland@beaufort.k12.sc.us>;Godley, Molly D <Molly.Godley@beaufort.k12.sc.us>

Dear Mr. Cook,

Plea e refer to our previou re pon e to thi FOIA reque t

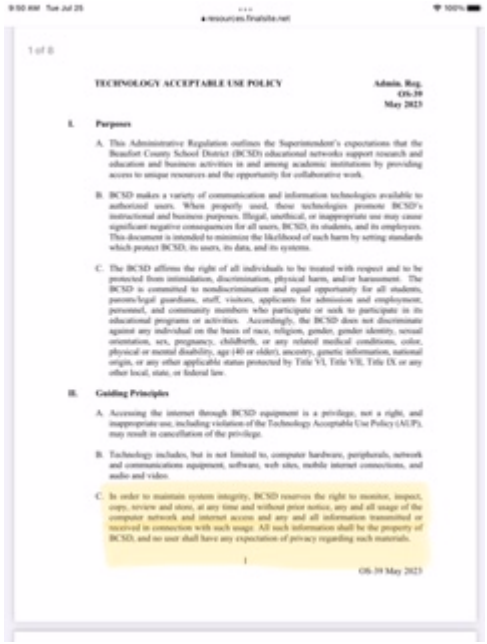
Regards,
Candace

From: David Cook [redacted]
Sent: Tuesday, July 25, 2023 9:56 AM
To: Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us>
Cc: Cartledge, Wendy B <Wendy.Cartledge@beaufort.k12.sc.us>; Rowland, Gillian C <Gillian.Rowland@beaufort.k12.sc.us>; Godley, Molly D <Molly.Godley@beaufort.k12.sc.us>
Subject: Re: Freedom of Information Act (FOIA) Request Form

Hello.
Taken from your own policy.
" C. In order to maintain system integrity, BCSD reserves the right to monitor, inspect, copy, review and store, at any time and without prior notice, any and all usage of the computer network and internet access and any and all information transmitted or received in connection with such usage. All such information shall be the property of BCSD, **and no user shall have any expectation of privacy regarding such materials.**"

There is no expectation of privacy for students. As I stated in the last request.
I'd prefer to resolve this immediately.

Please send the information I requested back in May in this thread.
Thank you.



1 of 8

TECHNOLOGY ACCEPTABLE USE POLICY **Admin. Reg. OS-39 May 2023**

I. Purposes

A. This Administrative Regulation outlines the Superintendent's expectations that the Beaufort County School District (BCSD) educational networks support research and education and business activities in and among academic institutions by providing access to unique resources and the opportunity for collaborative work.

B. BCSD makes a variety of communication and information technologies available to authorized users. When properly used, these technologies promote BCSD's instructional and business purposes. Illegal, unethical, or inappropriate use may cause significant negative consequences for all users, BCSD, its students, and its employees. This document is intended to minimize the likelihood of such harm by setting standards which protect BCSD, its users, its data, and its systems.

C. The BCSD affirms the right of all individuals to be treated with respect and to be protected from intimidation, discrimination, physical harm, and/or harassment. The BCSD is committed to nondiscrimination and equal opportunity for all students, parents/legal guardians, staff, visitors, applicants for admission and employment, personnel, and community members who participate or seek to participate in its educational programs or activities. Accordingly, the BCSD does not discriminate against any individual on the basis of race, religion, gender, gender identity, sexual orientation, sex, pregnancy, childbirth, or any related medical conditions, color, physical or mental disability, age (40 or older), ancestry, genetic information, national origin, or any other applicable status protected by Title VI, Title VII, Title IX or any other local, state, or federal law.

II. Guiding Principles

A. Accessing the internet through BCSD equipment is a privilege, not a right, and inappropriate use, including violation of the Technology Acceptable Use Policy (AUP), may result in cancellation of the privilege.

B. Technology includes, but is not limited to, computer hardware, peripherals, network and communications equipment, software, web sites, mobile internet connections, and audio and video.

C. In order to maintain system integrity, BCSD reserves the right to monitor, inspect, copy, review and store, at any time and without prior notice, any and all usage of the computer network and internet access and any and all information transmitted or received in connection with such usage. All such information shall be the property of BCSD, and no user shall have any expectation of privacy regarding such materials.

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OS-39 May 2023

Sent from my iPad

On Jul 21, 2023, at 11:24 AM, David Cook [redacted] wrote:

Good morning Dr Bruder,

I hope this email finds you well.

Your contention these emails are protected is without merit.

An inva ion of privacy can only occur when both partie are u ing private email addre e and there i an e pectation of privacy Email e change u ing Di trict i ued email do not con idered “protected from public eye ” FERPA doe not a ert protection of tudent email

In my reque t, both Dr Rodriguez and [redacted] are u ing public email addre e provided by the ta payer Thi hold true for anyone u ing a publicly i ued email addre A uch, they are both aware their communication i not con idered private and tho e email are ubject to thi reque t You may comply while redacting her fir t and la t name and email addre to protect her per onal identifiable information, but the content and te t of the email are not con idered per onally identifiable information under tatute

Digital communication , which are maintained not with the tudent’ educational file but rather in the inbo e and outbo e of numerou chool profe ional , are not “maintained by” the chool and o are not education record under FERPA

Emails, like assignments passed through the hands of students, have a fleeting nature. An email may be sent, received, read, and deleted within moments. Not permanent like an educational record. Like individual

assignments that are handled by many student graders, emails may appear in the inboxes of many individuals at the educational institution. FERPA does not contemplate that education records are maintained in numerous places. Congress contemplated that education records would be kept in one place with a single record of access.

I look forward to receiving this information immediately

Dr Rodriguez's email address is francisco.rodriguez@beaufort.k12.sc.us and is subject to FOIA requests regardless of the status of the other party.

Sent from my iPad

> On Jun 28, 2023, at 11:31 AM, Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us> wrote:
>
> Dear Mr. Cook,
>
> The district has already responded by providing the emails that are responsive to your request that are not subject to an exemption under the FOIA because they are confidential student records under the FERPA, and/or are considered information of a personal nature where the public disclosure would constitute unreasonable invasion of personal privacy.
>
> Regards,
> Candace
>
> ---
>
> **From:** David Cook [redacted]
> **Sent:** Wednesday, June 28, 2023 9:22 AM
> **To:** Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us>
> **Cc:** Cartledge, Wendy B <Wendy.Cartledge@beaufort.k12.sc.us>; Godley, Molly D <Molly.Godley@beaufort.k12.sc.us>; Rowland, Gillian C <Gillian.Rowland@beaufort.k12.sc.us>
> **Subject:** Re: Freedom of Information Act (FOIA) Request Form
>
> Thanks for the information.
> I just need the emails between [redacted] and Rodriguez.
> Thank you.
>
> On Tue, Jun 27, 2023, 4:20 PM David Cook <[redacted]> wrote:
>
> > Thank you for the update.
> >
> > On Tue, Jun 27, 2023, 4:16 PM Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us> wrote:
> >
> > > Dear Mr. Cook,

We have reviewed all emails that are responsive to your request. The attached are the emails that are responsive to your request that are not subject to an exemption under the FOIA because they are confidential student records under the FERPA, and/or are considered information of a personal nature where the public disclosure would constitute unreasonable invasion of personal privacy.

Regards,
Candace

From: David Cook <[redacted]
Sent: Saturday, May 27, 2023 2:34 PM
To: Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us>
Cc: Cartledge, Wendy B <Wendy.Cartledge@beaufort.k12.sc.us>; Rowland, Gillian C <Gillian.Rowland@beaufort.k12.sc.us>; Godley, Molly D <Molly.Godley@beaufort.k12.sc.us>
Subject: Re: Freedom of Information Act (FOIA) Request Form

Dear Dr Bruder,
Thank you for the update.
Emails to and from ANY board member or district staff, are subject to FOIA and not protected under FERPA unless it's a formal education record. Regardless of the sender or recipient. The intent of the law is to provide transparency. Anyone emailing a board member or staff, acknowledges their emails may be subject to FOIA. It is known all emails are subject to FOIA requests. The law doesn't change because it's a communication with a certain individual,unless it's an education record.
Your application of FERPA and stating student emails are not subject to FOIA is arbitrary and capricious, and without standing.

The information I am requesting is not protected under FERPA. ONLY education records are protected under FERPA as well as personally identifiable information, such as a students email address.
You can protect the students email address by redacting it. But the communication is with a board member unrelated to education records.
In the past, I have seen FOIA requests that included student email addresses fulfilled by your office as well as emails sent to dozens of people regarding disciplinary action on students, which included personally identifiable information distributed to a very large group of people.
The information I am requesting is not considered an "education record" such as grades and reports on performance, or behavioral issues, as defined under that law.

Under state and federal law, I acknowledge your obligation to protect personally identifiable information. However, the body of emails, to and from any board member, that do not contain education records or personally identifiable information, are not

protected under FERPA. And if they do, that information only, may be redacted in order to fulfill the request. However, a blanket statement denying the request violate the Freedom of Information Act.

I look forward to a response to my request and expect it to be fulfilled under SC code 30-40-30(C).

The solution is:
Fulfill my request as requested.
Redact the students email address only.
Considering this information is already in an electronic format, there is no cost to generate the records requested. Email requests are routinely fulfilled without cost.

I look forward to receiving this information in compliance with the statute.

Thank you so much for your assistance. I appreciate you and your staff and all of your hard work!
Regards,
Dave Cook
Sent from my iPad

> On May 26, 2023, at 9:56 PM, Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us> wrote:
>
> Dear Mr. Cook,
>
> Student emails are not considered public records as defined by FOIA. Further, such emails would be exempt from disclosure under The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and FOIA sections 30-4-40 (a) (2) and (4).
>
> Regards,
> Candace
>
> ---
>
> **From:** David Cook <[redacted]>
> **Sent:** Thursday, May 25, 2023 8:21 PM
> **To:** Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us>
> **Cc:** Cartledge, Wendy B <Wendy.Cartledge@beaufort.k12.sc.us>; Rowland, Gillian C <Gillian.Rowland@beaufort.k12.sc.us>; Godley, Molly D <Molly.Godley@beaufort.k12.sc.us>
> **Subject:** Re: Freedom of Information Act (FOIA) Request Form
>
> Dear Dr Bruder,
> I appreciate this email.

I already received a response to this request on May 10th.
That's when the the clock starts ticking for compliance.

Thank you.

On Thu, May 25, 2023, 6:18 PM Bruder-Brasseur, Candace L <Candace.Bruder-Brasseur@beaufort.k12.sc.us> wrote:

> Dear Mr. Cook,
>
> The district is in receipt of your May 10, 2023 FOIA request and will respond within the timeframe allotted in accordance with S.C. Code Ann. 30-4-30(C).
>
> Regards,
> Candace
>
> ---
>
> **From:** Jotform <noreply@jotform.com>
> **Sent:** Wednesday, May 10, 2023 7:58 PM
> **To:** Bruder-Brasseur, Candace L <candace.bruder@beaufort.k12.sc.us>; Cartledge, Wendy B <wendy.cartledge@beaufort.k12.sc.us>; Rowland, Gillian C <gillian.rowland@beaufort.k12.sc.us>; Godley, Molly D <molly.godley@beaufort.k12.sc.us>
> **Subject:** Re: Freedom of Information Act (FOIA) Request Form
>
> ** **WARNING:** This email originated from outside of Beaufort County School District's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe. **
>
> **Freedom of Information Act (FOIA) Request Form**
>
> | | |
> |---|---|
> | Name: | David COOK |
> | Address: | Street Address: 21 Quail Walk Lane [redacted] |
> | Home Phone Number: | [redacted] |
> | E-mail Address: | [redacted] |
> | Public Records Requested | Emails
Date range Dede 1, 2022 to May 10, 2023 |

(Description of Documents or Information Requested): [redacted] to Richard Geier to Dr Rodriguez
Richard Geier to [redacted]
Dr Rodriguez to [redacted]

You can edit this submission and view all your submissions easily.