

Please share with business managers as you determine appropriate

Hello Vermont Superintendents,

Yesterday, I heard from several of you regarding a request for specific records from an entity called American Transparency. The request was not unlike similar requests received in prior years by some districts.

The body of the inquiry, which was sent to some school districts included this text:

Pursuant to the Public Records Law, this is a request for a copy of the following records: An electronic copy of any and all employees for year of 2017, (fiscal or calendar year). Each employee record should contain the employer name, employer zip code, year of compensation, first name, middle initial, last name, hire date (mm-dd-yyyy), base salary amount, bonus amount, overtime amount, gross annual wages and position title. This data should be broken down by employer, employee and year.

As in prior years, I am suggesting that if you have questions that require legal assistance, you should always consider conferring with your school district's attorney.

That stated, because the request was sent to a number of districts yesterday, I asked Attorney Chris Leopold, who does some work with, and for, VSA to look at the request.

Below is the response that Chris sent to me. (Again, if you have questions about a request that you receive, you should always consider conferring with your school district's legal counsel.) And, thank you to Chris for his assistance with this question.

Thank you,

Jeff

From Chris (please read the entire message):

Jeff,

Generally, the information sought in the request is subject to disclosure under Vermont's public records law. If a single electronic record exists which includes all or most of this information, it should be produced. If the finance/payroll office can readily run a report with this information, it should be produced. A public agency does not have an obligation to create a public record or to convert paper records to electronic formats. A reasonable conclusion is that an agency does not have an obligation to create a new report or to manually manipulate this data to create an new electronic document.

Based on the above, there are two basic responses: produce the electronic “record(s)” consistent with the request or respond that the district/supervisory union does not have an electronic record containing the information requested. If a record exists, 1 VSA Section 316 (h) & (i) provide as follows for the production of such records:

(h) Standard formats for copies of public records shall be as follows: for copies in paper form, a photocopy of a paper public record or hard copy print-out of a public record maintained in electronic form; for copies in electronic form, the format in which the record is maintained. Any format other than the formats described in this subsection is a nonstandard format.

(i) if an agency maintains public records in an electronic format, nonexempt public records shall be available for copying in either the standard electronic format or the standard paper format, as designated by the party requesting the records. An agency may, but is not required to provide copies of public records in a nonstandard format, to create a public record, or to convert paper public records to electronic format.

Most importantly, the district/supervisory union needs to acknowledge receipt of the request and respond to it within three business days. Generally, districts may respond by: 1) producing the requested records; 2) stating that the records do not exist or do not exist in the requested format. There are special provisions in 1 VSA Section 316 for charging staff time in excess of thirty minutes for the production of records or for the creation of public records. Fees may be charged for producing records in nonstandard format.

Finally, districts/supervisory unions should be encouraged to consult with their legal counsel to review their unique circumstances and records they may have that are relevant to this request.

Chris

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