

June 23, 2022

BY EMAIL ONLY (brodkin@behavioralinstruments.com)

Mr. Jesse Brodkin
Behavioral Instruments
67 Maple Run
Basking Ridge, NJ 07920

Dear Mr. Brodkin:

I write in response to your request dated May 2, 2022 (copy attached for reference) pursuant to the New York Freedom of Information Law (Public Officers Law §§ 84-90), as follows:

REQUEST: “Email communications to or from hywang@med.cuny.edu including the text strings: (‘biomedcentral.com’ OR ‘wiley.com’) over the time period 8/1/2021 and 4/27/2022. To be clear; my intention is to obtain communications between any individual at ‘biomedcentral.com’ or ‘wiley.com’ and Dr. Wang and the quotation marks are for clarity and not to be included in the text string search.”

Response: Your request is hereby granted in part and denied in part. Attached please find a PDF of 207 pages containing all responsive emails located by The City College of New York, except please note we have redacted personal email addresses pursuant to Public Officers Law §§ 89(2)(a) and 89(2)(c)(i). Please note that no notation has been marked in the margins of the PDF based on these provisions.

Your request is hereby denied, and we have consequently redacted the records, as follows, pursuant to:

- (a) Public Officers Law § 87(2)(a), to the extent that such records contain student email addresses, on the ground that such information is specifically exempted from disclosure by a federal statute – that is, such disclosure would constitute disclosure of education records of such students in violation of the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g(b). *See* 34 C.F.R. § 99.3 (defining “education records” as those records that are “directly related to a student; and maintained by an educational agency or institution or by a party acting for the agency or institution”); these redactions are marked in the margins as “FERPA/Privacy,” and/or

(b) Public Officers Law § 87(2)(d), on the ground that such records contain information obtained from a commercial enterprise, which if disclosed would cause substantial injury to the competitive position of the subject enterprise; these redactions are marked in the margins of the PDF as “POL § 87(2)(d).”

In accordance with N.Y. Public Officers Law § 89(4)(a), any appeal from this response to your Freedom of Information Law request must be made in writing within 30 calendar days of the date of this letter to:

Derek Davis, Esq.
Senior Vice Chancellor for Legal Affairs and General Counsel
The City University of New York
205 East 42nd Street
New York, NY 10017
ogc@cuny.edu

Sincerely,

/s/ Paul F. Occhiogrosso

Paul F. Occhiogrosso
Executive Counsel to the President

Enclosures

PFO/kk