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OUR FILE NUMBER:

005533.00000
41704061.1

June 29, 2023

VIA EMAIL

Adam Goldstein
143922-01311098@requests.muckrock.com

Re: Determination Response to Public Records Act Request

Mr. Goldstein:

This firm represents the Grossmont-Cuyamaca Community College District (“District”), and this correspondence constitutes the District’s initial response to your May 25, 2023 request for records pursuant to the California Public Records Act (“CPRA”), Government Code section 7920.000 et seq.¹

Specifically, you requested the following:

I am writing to request payroll records (for all employees of your institution) from 1984 to 2022. The information I am looking for is nonpersonal (ie: Name, campus address and telephone number, title, rate of pay, job description and date of hire). We would like disaggregated figures, not aggregated.

Non Personal records:

Name (first and last)

Email

Title

Rate of pay (base pay, other pay, overtime pay, benefits, and total pay)

Job. description

Date of hire

If the institution has a system of categorizing employees please include their categorization and corresponding codebook if relevant.

Department and/or Area and/or Office

Your request is subject to exemption from disclosure since the volume of records to be searched is so great that it constitutes an unduly burdensome request under the “rule of reason” implied in

¹ Your May 25, 2023 correspondence refers to a March 29, 2023 request, but the District did not receive your request until May 25, 2023.

June 29, 2023

Page 2

the CPRA. [See *Rosenthal v. Hansen* (1973) 34 Cal.App.3d 754, 761; *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.] The CPRA permits requestors to have reasonable access to the desired documents and to secure copies of specific documents, but this is subject to the imposition of reasonable restrictions on general requests for voluminous classes of material. [See *Rosenthal, supra*, at p. 754.]

In this case, the scope of your request is unduly burdensome, because it is too broad and covers a period of over 38 years. The District would need to undergo a very time-consuming and expensive process of reviewing, analyzing, compiling, and reconstructing records of hundreds of current employees and thousands of past employees from the last 38 years to provide you with all payroll records and all job descriptions over that period of time. There are also hundreds of current job descriptions in the District's database, and past job descriptions have not been electronically stored in any central location. Therefore, your request, as presently formulated, is so onerous due to its overbreadth as to render it unduly burdensome pursuant to Government Code Section 7922.000 and applicable legal authorities.

Your request also appears to require the District to create records that do not exist, something the CPRA does not require; the District's obligation under the CPRA is limited to producing existing records. [Haynie v. Superior Court (2001) 26 Cal.4th 1061, 1075.] Under California Government Code Section 7922.570(a), the District is permitted to make public records available, upon request, in any electronic format in which it maintains the information or in a requested format if it has used the format to create copies for its own use or to provide to other agencies. Government Code section 7922.570(b)(2) permits the District to charge the requester for the cost to construct the record when the request requires data compilation or extraction to produce the record. Accordingly, the District declines to create an Excel spreadsheet of employee directory information, unless you pay the full cost to compile and construct that record. Please advise if that is your desire and the District will provide the estimated cost of extraction and compilation required to construct the record.

With regard to your request for employee work email addresses, the District expends significant resources ensuring the proper use and security of its electronic information systems, and requires that email be used only for District business and to further the educational needs of students. Disclosure of these employee email addresses to the general public would likely inundate the District's email system with unsolicited messages which would tend to disrupt District operations, reduce the efficiency of our staff, and distract them from performing their job duties.

Furthermore, District employees also possess a privacy interest guaranteed by Article I, § 1 of the California Constitution in their work email addresses. Please note that the federal courts have recognized these concerns as legitimate personal privacy interests that justify federal government agencies' decisions to withhold employee work email addresses from disclosure under Exemption 6 of the Freedom of Information Act.² [See *Shurtleff v. United States*

² Note that Exemption 6 is "substantively identical" to the "personnel records" exemption of Government Code Section 6254(c), and the federal courts' interpretation and application of Exemption 6 thus "illuminates" California

June 29, 2023

Page 3

Environmental Protection Agency, 991 F.Supp.2d 1, 18-19 (D.D.C. 2013) (upholding the federal government agency’s decision not to disclose requested employee email addresses based on the “significant personal interest in preventing the burden of unsolicited emails and harassment”); *Competitive Enterprise Institute v. United States Environmental Protection Agency*, 12 F.Supp.3d 100, 123 (D.D.C. 2014) (recognizing that White House employees “have a powerful privacy interest in their work email addresses while they are employed”).]

Pursuant to section 7922.000, a public entity is entitled to withhold or redact any whole or part of records “by demonstrating that the record, in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” Accordingly, under the balancing test set forth in Government Code Section 7922.000, your request for any employees’ District email addresses and work phone numbers other than those located on the publically available links noted above are denied. Furthermore, the District denies the request with regards to records that are not currently available, as that would involve the creation of records at a great additional expense and use of numerous employee resources.

For all of the above-described reasons, the District contends that it is necessary that you either withdraw your request, or narrow the request and specifically clarify what you are seeking. We and the District stand ready to assist in that endeavor, in order to help you make a more focused request that is reasonable in scope and identifies disclosable public records.

Should you have any questions or concerns about any of the foregoing, please do not hesitate to contact me.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A handwritten signature in black ink, appearing to read "Mark R. Bresee", with a long horizontal flourish extending to the right.

Mark R. Bresee

courts’ construction of the Public Records Act counterpart, since the Freedom of Information Act is the model upon which the California Public Records Act is based. [*Versaci v. Superior Court* (2005) 127 Cal.App.4th 805, 818.]