

June 3, 2020

The Honorable Rod Underhill, District Attorney
Multnomah County Courthouse
1021 S.W. Fourth Avenue, Room 600
Portland, Oregon 97204

Dear Mr. District Attorney,

By this letter, I wish to appeal the recent decision of the Portland Public School District (LEA) that my public records request “does not justify a waiver of the assessed fees.” That determination (cf. Addendum B, attached) was received by me via email on May 20, 2020, and has as a possible reference number 1920-190.

The LEA states, “In brief, we have determined that the public interest does not justify a waiver of the assessed fees.” The LEA provides for this determination no further explanation.

The “public interest” to be served by the fulfillment of my request is to certify that federal IDEA statute, including the regulations thereof and related guidance issued by both the United States Department of Education (US DOE) and the Oregon Department of Education (SEA), is being followed by both the LEA and the SEA.

39 of Oregon’s 115 private elementary and secondary schools are located within said LEA.¹ About 14-percent of students in Oregon attend private schools.² Based on the total number of students attending public schools in the LEA (49,000),³ it can be extrapolated that roughly 5,600 students attend private schools which are located within said LEA. Therefore, the *specific* “public interest” to be served is the public’s ability to determine and understand whether and how the LEA is equitably treating these 5,600 parentally-placed private school students, as federal law requires it to do.

As I conveyed in my original request (cf. Addendum A, attached) of April 10, 2020, my request is specific and not overly broad. Furthermore, because my request is componential to a study that is being conducted on behalf of non-public school students with learning differences, my request broadly serves the public interest, as detailed above. Finally, as detailed in my request, the SEA is required by federal statute to collect the specific information that I am requesting.

By this letter, I am requesting that my request for a fee waiver be granted. If a complete fee waiver were not possible, then I would be happy to accept a reasonable fee waiver that is only partial. In that case, I would gladly pay that fee.

¹ <https://www.privateschoolreview.com/oregon>; <https://www.privateschoolreview.com/tuition-stats/oregon/high>; <https://www.privateschoolreview.com/tuition-stats/oregon/elementary>

² <https://www.movingtoportland.net/schools/private-schools/>

³ <https://www.pps.net/domain/265>

I have copied on this communication my associate Steve Perla and also Maureen Dowling, Director of the Office of Non-Public Education (ONPE) at the US Department of Education (US DOE).

My email address is tomolson@theadac.com. My telephone number is (774) 364-0567.

I look forward to receiving from you a timely response.

Sincerely,



Tom Olson
Principal Partner

Cc: Mr. Steve Perla, ADAC, Principal Partner
Ms. Maureen Dowling, Director, Office of Non-Public Education, US DOE
Public Records, Portland Public Schools (publicrecords@pps.net)

ADDENDUM A

To Whom It May Concern:

Pursuant to the Oregon Public Records Law, I hereby request the following records:

According to 34 C.F.R. §300.211 and §300.645 of the Individuals with Disabilities Education Act (IDEA), each local public school district (LEA) in the State of Oregon must provide to the Oregon Department of Education (SEA) “information relating to the performance of children with disabilities participating in programs carried out under Part B” of IDEA so that, among other actions, the SEA can (1) “obtain certification from each [LEA] that an unduplicated and accurate count [of students who have been identified as having a disability(s)] has been made,” (2) “[a]ggregate the data from the count obtained from each [LEA],” and (3) “[e]nsure that documentation is maintained that enables [the California Department of Education] and the [US Department of Education] to audit the accuracy of the count.”

34 C.F.R. § 300.131 and 34 C.F.R. § 300.132(c) further mandate, respectively, that (1) “[e]ach LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA” and (2) “[e]ach LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§ 300.130 through 300.144: (1) The number of children evaluated; (2) The number of children determined to be children with disabilities; and (3) The number of children served.”

In light of 34 C.F.R. § 300.132(c) and the other above-quoted regulations, I respectfully request the following information for the past 5 years:

- The total number of public school students in the Portland Public Schools who have been referred to child-find.
- The total number of charter school students in the Portland Public Schools who have been referred to child-find.
- The total number of home-schooled students in the Portland Public Schools who have been referred to child-find.
- The total number of private school students in the Portland Public Schools LEA who have been referred to child-find.

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- The total number of public school students in the Portland Public Schools who have been evaluated for disability(s).
 - The total number of charter school students in the Portland Public Schools who have been evaluated for disability(s).
 - The total number of home-schooled students in the Portland Public Schools who have been evaluated for disability(s).

- The total number of private school students in the Portland Public Schools LEA who have been evaluated for disability(s)
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- The total number of public school students in the Portland Public Schools who have been determined to have a disability(s).
 - The total number of charter school students in the Portland Public Schools who have been determined to have a disability(s).
 - The total number of home-schooled students in the Portland Public Schools who have been determined to have a disability(s).
 - The total number of private school students in the Portland Public Schools LEA who have been determined to have a disability(s).
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- The total number of public school students in the Portland Public Schools who have been served.
- The total number of charter school students in the Portland Public Schools who have been served.
- The total number of home-schooled students in the Portland Public Schools who have been served.
- The total number of private school students in the Portland Public Schools LEA who have been served.

Under Sections 611 and 619 of IDEA, the Oregon Department of Education (SEA) receives each year grants from the federal government to provide special education and/or related services to eligible students. In accord with 34 C.F.R, § 300.705, the SEA then allocates subgrants to each LEA.

In light of Sections 611 and 619 and 34 C.F.R, § 300.705 and all other pertinent regulations, I respectfully request the following information for the past 5 years:

- The total IDEA allocation/grant received by the Portland Public Schools LEA.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 business days.

Sincerely, Thomas Olson

ADDENDUM B

Hello:

We have completed our analysis of your request for a fee waiver. In brief, we have determined that the public interest does not justify a waiver of the assessed fees. We will wait to proceed until the fees are paid. You have the right to petition the Multnomah County District Attorney for a review of this decision.

As always, we remain willing to work with you to potentially reduce the scope or volume of your request in order to reduce the time and cost required to respond. Please let us know if this is something you are interested in.

Thank you.

Public Records
Portland Public Schools

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501 N. Dixon St., Portland, OR 97227 (mail)