

Subject: PRR 04262021

June 14, 2021

Hello Ms. Boyer,

Thank you for your communications dated 6-4-21.

My response is as follows:

YOU STATED:

“Dear Requestor:

You do not address in your response below my second email to you on June 1 at 5:17 PM Pacific Time with respect to your request for an internal review of your request under Procedure 4040P. I intend to assist you promptly if it is your intention to proceed in that regard. Please advise if you intend to proceed with an internal review. If so, please identify precisely the issues you wish to have reviewed by submitting a petition as described in Procedure 4040P. I will be able to refer a petition for an internal review upon receipt of a petition.

It is my understanding that videos posted on the sites I have provided to you can be downloaded. I will check further on that with our IT Department and advise further.”

MY RESPONSE:

I request an internal review per Procedure No. 4040P - Public Access to District Records. My petition for internal review follows at the end of this communication.

YOU STATED:

“You state, “You provided “access” to STREAMS of “original” digital video recordings that have been edited.” (Emphasis in your text.) I am not aware of editing that may have been done in any of the posted videos, or how you may have formed such an opinion by viewing them. My understanding is that the posted videos are original, final records. Board of director meeting videos, for example, would not have been edited prior to being posted on BoardDocs and the District’s YouTube Channel.

If in a particular case there may have been an earlier version of a posted video, it is possible that the creator may have a draft of the video, which may be exempt under RCW 42.56.280, or which may have been in the form of an informal note and not a public record.

You also inquire about the name and date of videos, and their format. The name and date of posting are viewable in the platforms to which you have been given access. Dates of creation may be additionally stated within a video, if a video was created before it was posted. The records speak for themselves as to these questions.”

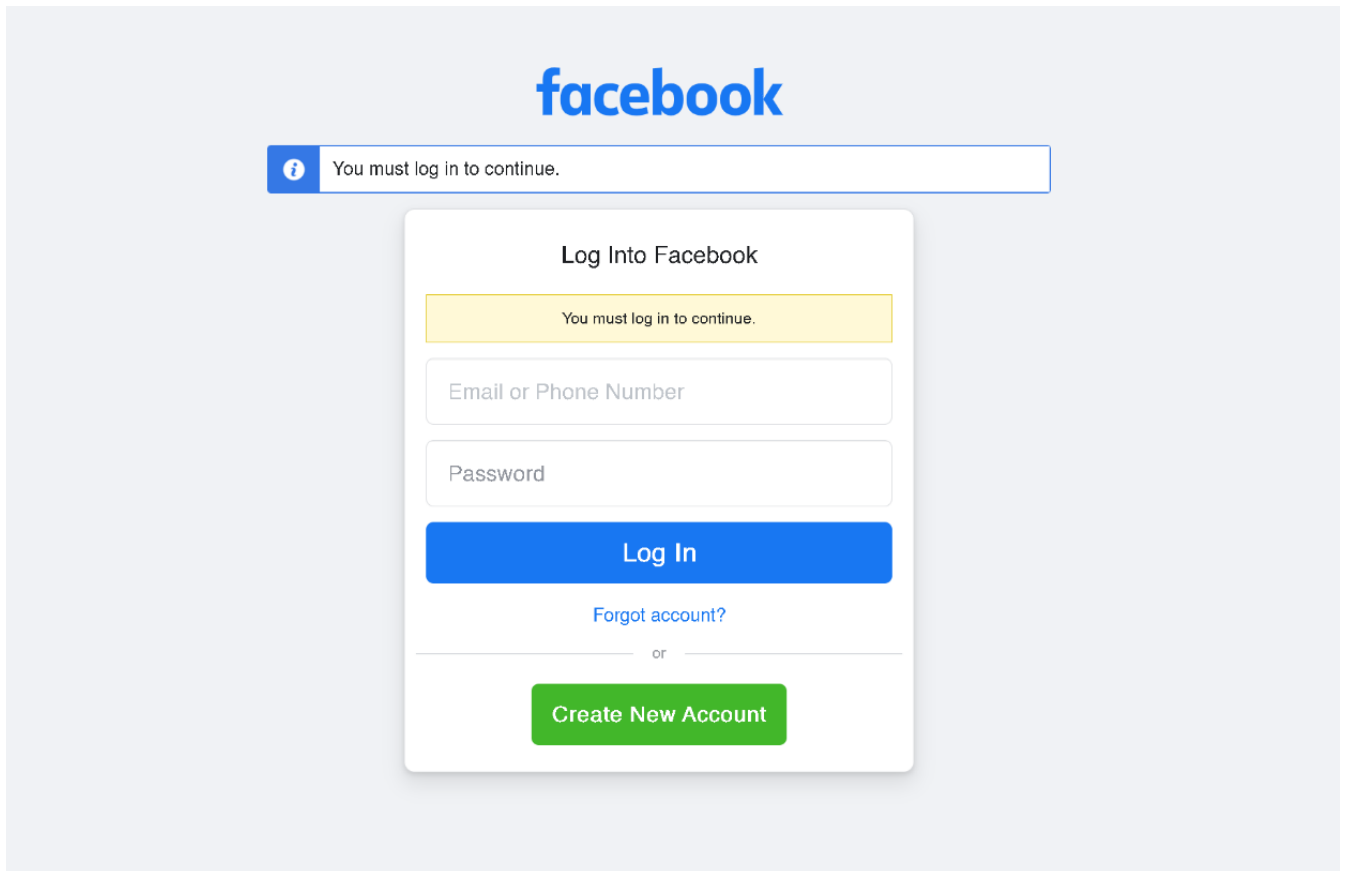
MY RESPONSE:

To date you have provided zero requested records. No exemption logs of records you allege to have produced have been provided. No digital copies of any digital videos requested have been provided.

You have provided links to the following 3rd party services, none of which provide digital copies of the digital video files requested:

FACEBOOK

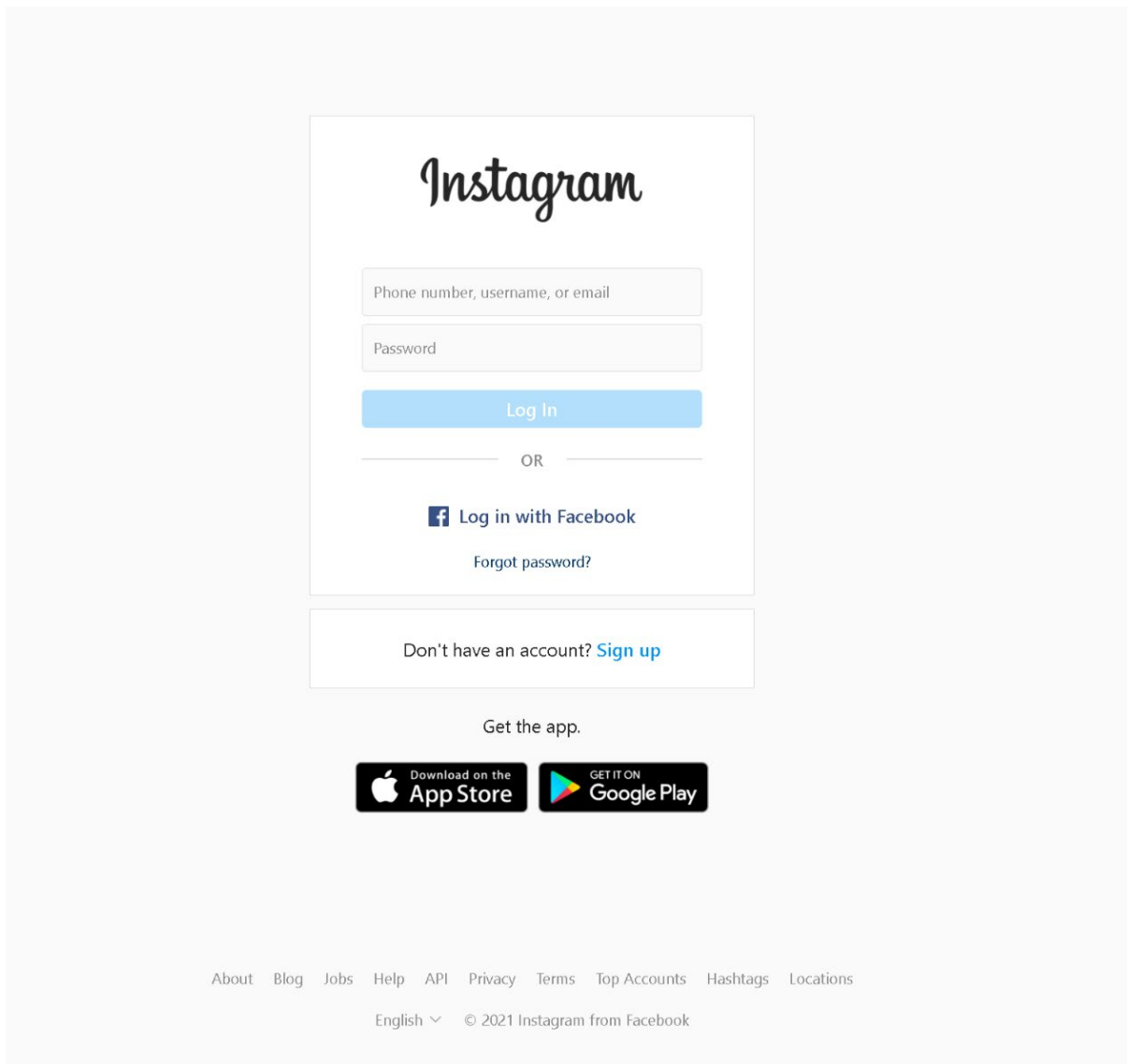
<https://www.facebook.com/bsd405>



NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

INSTAGRAM

<https://www.instagram.com/bellevueschools405/>



NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

TWITTER

<https://twitter.com/TheBSD405>

Bellevue School District
2,277 Tweets

Bellevue School District
@TheBSD405

We serve over 20,000 students. Website accessibility notice: bsd405.org/website-access...

Bellevue, WA bsd405.org Joined September 2009

100 Following 4,597 Followers

Tweets Tweets & replies Media Likes

Bellevue School District @TheBSD405 · Jun 4
Today, Friday, June 4, the Somerset Elementary School building is closed and there will not be transportation or food service. Please look for a message from your student's teacher. Remote instruction will be provided as possible.

Bellevue School District @TheBSD405 · Jun 3
In case you missed BSD News and Events! bit.ly/34LI4SU

New to Twitter?
Sign up now to get your own personalized timeline!
[Sign up](#)

You might like

- Lake Washin...** @LakeWashSc... [Follow](#)
- Clover Park S...** @CloverParkSD [Follow](#)
- Steilacoom S...** @steillyschool... [Follow](#)

[Show more](#)

What's happening

NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

YOUTUBE

The screenshot displays the YouTube channel interface for Bellevue School District. At the top, there is a search bar and a 'SIGN IN' button. The channel banner features a photograph of a school building. Below the banner, the channel name 'Bellevue School District' and '1.13K subscribers' are visible, along with a 'SUBSCRIBE' button. The navigation menu includes 'HOME', 'VIDEOS', 'PLAYLISTS', 'COMMUNITY', 'CHANNELS', and 'ABOUT'. The 'BEST OF YOUTUBE' section lists various content categories like Music, Sports, Gaming, etc. The 'Uploads' section is active, showing a list of recent videos:

- Noticias de LWSD y BSD para Junio 1 2021**: 10:06, 112 views • 4 days ago
- BSD 405 Board of Directors Meeting; May 18th, 2021**: 4:23:41, 75 views • 1 week ago
- Noticias de BSD y LWSD para Mayo 17**: 14:29, 33 views • 2 weeks ago
- BSD 405 Board of Directors Meeting; May 4th, 2021**: 5:11:22, 170 views • 4 weeks ago
- Community Conversation - STEM Fair - Simplified...**: 17:51, 26 views • 1 month ago

At the bottom, there is a 'Popular uploads' section with a 'PLAY ALL' button.

NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

District website: <https://bsd405.org/>

12111 NE 1st Street | Bellevue, WA 98005 | (425) 456-4000

SEARCH MEETINGS

2021

- Jun 1, 2021 (Tue)**
AGENDA Regular Meeting of the Board of Directors
- May 20, 2021 (Thu)**
Special Meeting of the Board of Directors - Board Development Workshop
- May 18, 2021 (Tue)**
AGENDA Regular Meeting of the Board of Directors
- May 11, 2021 (Tue)**
Continuation of Regular Meeting of the Board of Directors
- May 11, 2021 (Tue)**
Special Meeting of the Board of Directors - Executive Session
- May 10, 2021 (Mon)**
Continuation of Regular Meeting of the Board of Directors
- May 8, 2021 (Sat)**
Continuation of Regular Meeting of the Board of Directors
- May 7, 2021 (Fri)**
Continuation of Regular Meeting of the Board of Directors
- May 4, 2021 (Tue)**
AGENDA Regular Meeting of the Board of Directors
- May 4, 2021 (Tue)**
Continuation of Regular Meeting of the Board of Directors
- May 3, 2021 (Mon)**
Continuation of Regular Meeting of the Board of Directors
- Apr 30, 2021 (Fri)**

AGENDA Regular Meeting of the Board of Directors Tuesday, May 18, 2021

Bellevue School District
Vision: To affirm and inspire each and every student to learn and thrive as creators of their future world.
Mission: The mission of the Bellevue School District is to serve each and every student academically, socially, and emotionally, through a rigorous and relevant education that is innovative and individualized. As a learning community that values one another's humanity, we provide courageous support for an equitable and exceptional education for all students.
This Regular Board meeting will be streamed live and can be joined online by clicking the 'Video' button that will appear above on the day of the meeting.
Captions in languages other than English are also available. Please reach out to the Board Coordinator in advance, if you would like a specific language by calling (425) 456-4172. Public comments, in writing, will also be accepted in advance of the meeting. For more information on submitting public comments in writing please visit the Board webpage for public comments at <https://bsd405.org/about/school-board/public-comments/>.
A recording of the meeting will be available 48 hours after the meeting via this page.
All meeting times listed in the agenda are approximate.

View the Agenda | Print the Agenda | Watch Video

Meeting Video
Bellevue School District
BSD 405 Board of Directors ...
Regular Board Meeting
May 18th, 2021
AFFIRM. INSPIRE. THRIVE

BoardDocs is intended for the use of subscribers and licensed customers. All users are required to read and follow the acceptable use policy. BoardDocs® A Diligent Brand, © 2002-2021

NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

Again, none of the requested records have been provided. No exemption logs have been provided.

YOU STATED:

“As I have explained, by providing you the hundreds of videos you have been provided to date, the District is not concluding your request. Rather, the District has promptly provided to you the readily available records that exist. The District is not asserting exemptions in the videos you have been provided. The process of assembling additional videos created and maintained by individual staff persons is an enormous and lengthy task, for the reasons I have described to you.

MY RESPONSE:

No requested records have been provided. No exemption logs have been provided. The process of locating and providing copies of the digital video files originally requested (public records that have been properly identified under the PRA) is the legal obligation and responsibility of the District. Continuing to argue and object about the scope of the task is prohibited by the Public Records Act.

This public records request is not vague, nor overly broad in nature.

This public records request is for identifiable records.

This public records request does not seek records extraordinary in nature, nor does the request seek a complication of records to be produced, nor does the request seek a list or lists of any kind.

This public records request is in the best interest of the general public.

The District has the option to produce the public records in installments over time.

To date, the District has not produced a single record, nor has the District produced an exemption log of any kind.

YOU STATED:

“Finally, please note that it is part of the District’s recordkeeping system that your PRR request number appear at the beginning of the subject line of emails pertaining to your request. In some of my reply correspondence to you, your subject line has been too long to permit the PRR number to be inserted, so I have had to delete or truncate some of your subject line. I would appreciate it if you can shorten your subject line in some manner and include the PRR number in all of your correspondence to this office.

Best regards,

**Helen A. Boyer
Public Records Officer
Bellevue School District No. 405”**

MY RESPONSE:

I am not sure I understand what you are asking, however I will endeavor to do my best in assisting you with your internal record keeping if possible.

PETITION FOR INTERNAL REVIEW
Procedure No. 4040P - Public Access to District Records

Procedure No. 4040P - Public Access to District Records:

Internal Review of Denials of Public Records Petition for Internal Administrative Review of Denial of Access Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request

BEGIN: PETITION FOR INTERNAL REVIEW re: Procedure No. 4040P - Public Access to District Records

From: Anon Request

04/25/2021

To Whom It May Concern:

Pursuant to the Washington Public Records Act, I hereby request the following records:

Digital copies of all video recordings of internet-based video calls, meetings, training sessions, town halls, school board meetings, and google classroom sessions in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21.

To clarify, if the District is in possession of any digital recordings of Zoom meeting calls, Skype Sessions, Google Duo calls, Slack, Gotomeeting, etc. (any recorded internet-based video communication/presentation/instruction product) for the period of time 01-01-20 through 4-22-21 I am requesting a digital copy to be produced via internet web link.

The District search for these digitally recorded videos should include all computers and digital storage devices owned, operated, or controlled by the District.

The District search for these digitally recorded videos should also include a search of all computers and digital storage devices owned, operated, or controlled by District employees if the digital video was recorded on equipment provided to the employee by the District, or if the digital video recording contains content relating to District agency related matters.

I request the digital video files to be delivered unedited whenever possible and in the original format in which the files were digitally recorded and stored.

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 internet web link or e-mail attachment if available or by 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.

Sincerely,

Anon Request

From: Muckrock Staff

04/29/2021

To Whom It May Concern:

I wanted to follow up on the following Washington Public Records Act request, copied below, and originally submitted on April 22, 2021. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

From: Bellevue School District

04/29/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

Thank you for your inquiry.

From: Bellevue School District

05/03/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

In this message, on behalf of the Bellevue School District, I am completing the District's initial response to your request, making a first installment of responsive records, and posing some clarification questions to you.

I understand your request, received April 26, 2021, to be:

Digital copies of all video recordings of internet-based video calls, meetings, training sessions, town halls, school board meetings, and google classroom sessions in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21.

To clarify, if the District is in possession of any digital recordings of Zoom meeting calls, Skype Sessions, Google Duo calls, Slack, Gotomeeting, etc. (any recorded internet-based video communication/presentation/instruction product) for the period of time 01-01-20 through 4-22-21 I am requesting a digital copy to be produced via internet web link.

The District search for these digitally recorded videos should include all computers and digital storage devices owned, operated, or controlled by the District.

The District search for these digitally recorded videos should also include a search of all computers and digital storage devices owned, operated, or controlled by District employees if the digital video was recorded on equipment provided to the employee by the District, or if the digital video recording contains content relating to District agency related matters.

I request the digital video files to be delivered unedited whenever possible and in the original format in which the files were digitally recorded and stored.

Your request is potentially exceedingly voluminous and will be completed in a series of installments. This message contains the first installment, addressing recorded "school board meetings" and "classroom sessions."

Response with respect to video recordings of school board meetings

Videos of school board meetings are posted on the District's website. You may retrieve them as follows:

Go to <https://bsd405.org/about/school-board/>. Scroll down and select "Go to BoardDocs." In BoardDocs, select "Meetings" from the ribbon at top right. On the left, use the dropdown menu to select the date of meeting in which you have an interest. When you select the date of any Regular Meeting of the Board of Directors, an icon labelled "Watch video" will appear. In most cases, these video recordings contain audio content only. Records referred to may be viewed by clicking on the "View the Agenda" icon.

Response with respect to recorded classroom sessions

The District does not use "google classroom sessions." Further, where students are present or referred to in any recorded classroom session, those records are fully exempt under RCW 42.56.230(1) (personal information in any files maintained for students in public schools); and under RCW 42.56.070(1) (exemptions authorized outside PRA) and the Family Educational Rights and Privacy Act (FERPA), 20 USC section 1232g (education records or any personally identifiable information in education records is exempt from disclosure to third parties without adult student or parent consent).

Generally, with respect to other types of recordings

Please see the following links to the District's website, where recent District-wide town hall meetings and other types of recordings may be or may have been posted:

District website: <https://bsd405.org/>

Facebook:

<https://www.facebook.com/bsd405<https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.facebook.com%2Fbsd405&data=04%7C01%7Cpublicrecords%40bsd405.org%7C5508a3f2a3e1401be6d008d90b411fb4%7C994a41397c06491e809879006d575de0%7C0%7C0%7C637553196587929667%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=8kzBso1VJsyXO5FMpes0bPoT7Kdu%2B4k5PyDGD0Cq13M%3D&reserved=0>>

Twitter:

<https://twitter.com/TheBSD405<https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2FTheBSD405&data=04%7C01%7Cpublicrecords%40bsd405.org%7C5508a3f2a3e1401be6d008d90b411fb4%7C994a41397c06491e809879006d575de0%7C0%7C0%7C637553196587939661%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=Nt4p%2BP29zz7Vyudzsv4wAhoH9z3z7sgp4ZOyldfoG8%3D&reserved=0>>

Instagram:

<https://www.instagram.com/bellevueschools405/<https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.instagram.com%2Fbellevueschools405%2F&data=04%7C01%7Cpublicrecords%40bsd405.org%7C5508a3f2a3e1401be6d008d90b411fb4%7C994a41397c06491e809879006d575de0%7C0%7C0%7C637553196587939661%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6I1haWwiLCJXVCi6Mn0%3D%7C1000&sdata=UcBzaQQeyD%2BVRW2NvoEvSntMLFsa89obn403NAkwVF0%3D&reserved=0>>

Clarification Questions

Assembly and review work is proceeding with respect to the other types of recordings you have identified, i.e., "internet-based video calls," "meetings," "training sessions," and "town halls." Before the District will be able to proceed, your answers to the following clarification questions will be required.

Clarification Questions

1. Some "town halls" are conducted at the District level and some are conducted at a school building level. The District has 29 schools, any of which may have conducted and recorded "town halls" with its student and parent communities. Many town hall meetings, especially at the building level, are likely to contain information protected by FERPA (cited above). Please advise if you are interested only in recordings of District-wide town hall meetings.

2. Digital recordings of "internet-based video calls, meetings, [and] training sessions" are not centrally maintained. Retrieval of such recordings would require communication with approximately 2,500 District employees who may have recorded such a call, meeting, or training session. The volume of potentially responsive records may be exceedingly high and may require hundreds or thousands of hours of content review to identify exempt material. If exemptions apply, a technologically complicated and extremely time-consuming redaction process may be required, for which you would likely have to pay, because the District does not have the technological and staff resources to perform such redactions, especially on a massive scale. Please clarify whether you will continue to seek such records,

and, if so, specify your request, e.g., by type of content, dates, or originator, so that the District can efficiently provide you with information that is in fact meaningful to you.

3. Digital recordings of "training sessions" are likely to be subject to copyright protection, and trade secret or other proprietary exemptions. A consideration of the release of such recordings would in most cases require review by the content owner or originator, to identify protected content. If exemptions apply, a technologically complicated and extremely time-consuming redaction process may be required, for which you would likely have to pay, because the District does not have the technological and staff resources to perform such redactions, especially on a massive scale. Please clarify whether you will continue to seek such records, and, if so, specify your request, e.g., by type of content, dates, or originator, so that the District can efficiently provide you with information that is in fact meaningful to you.

4. Additionally, although you state that your request is not commercial in nature, in many cases the digital recordings of "internet-based video calls, meetings, training sessions [and] town halls" would inherently contain lists of individuals, identifiable by the fact that they would in many cases be shown as signed in to the call, meeting, training session, or town hall. Therefore, your request for such materials requires a commercial purposes inquiry. Please complete the attached Commercial Purpose Declaration within 30 days if you intend to proceed with these portions of your request. If you do not return the Declaration, your request will be closed.

Please answer these clarification questions within 30 days, that is, on or before June 2, 2021. The District's analysis and assessment of your request may result in additional clarification questions.

If additional materials are identified that can be disclosed to you, subject to the issues expressed in the clarification questions above, I estimate July 15 as a tentative next installment date. However, that estimate may have to be altered, depending on your answers to the clarification questions above.

I am glad to assist you if you wish to discuss.

Finally, it is possible that there may be a delay in our communications due to firewalls in the District's email system that flag emails that appear to be spam or solicitations. In my experience, that can be remedied by the identification of a named sender. Please consider providing a named sender (in some way that will protect your anonymity, if you still wish to preserve it) if that appears to be a problem (e.g., in why you apparently thought the District received your request on April 22, when in fact it was received on April 25, a weekend day, and was deemed received on April 26).

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Anon Request

05/06/2021

To: Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org

May 6, 2021

RE: 1st installment, addressing recorded "school board meetings" and "classroom sessions."

Hello Ms. Boyer,

Please see my responses to your 1st installment and answers to your requests for clarification:

With respect to video recordings of school board meetings

Videos of school board meetings are posted on the District's website. You may retrieve them as follows:

Go to <https://bsd405.org/about/school-board/>. Scroll down and select "Go to BoardDocs." In BoardDocs, select "Meetings" from the ribbon at top right. On the left, use the dropdown menu to select the date of meeting in which you have an interest. When you select the date of any Regular Meeting of the Board of Directors, an icon labelled "Watch video" will appear. In most cases, these video recordings contain audio content only. Records referred to may be viewed by clicking on the "View the Agenda" icon.

Response: Thank you.

With respect to recorded classroom sessions

The District does not use "google classroom sessions." Further, where students are present or referred to in any recorded classroom session, those records are fully exempt under RCW 42.56.230(1) (personal information in any files maintained for students in public schools); and under RCW 42.56.070(1) (exemptions authorized outside PRA) and the Family Educational Rights and Privacy Act (FERPA), 20 USC section 1232g (education records or any personally identifiable information in education records is exempt from disclosure to third parties without adult student or parent consent).

Response:

With all due respect, while digital video recordings where students are present or referred to certainly could be wholly exempt from disclosure to third parties, this is certainly not always going to be the case. Public records act exemptions are subject to very specific State and Federal statutes and circumstances.

The request for copies of any digital video recordings of classroom sessions for the requested period of time is not necessarily exempt in whole. The District has the responsibility to search for digital video recordings of classroom sessions and then redact student information where appropriate under statute, then producing the remainder of the non-exempt record or in this matter digital video file.

Quite probably digital video recordings wholly or partially redacted by the District based on specific exemptions would still provide the requestor the name of the video file, the date and time of the recording, the length of the recording, the place of recording, the method of recording, the storage location of the digital video file itself, metadata not subject to redaction, and more.

From the BELLEVUE SCHOOL DISTRICT – Public Records Request Website:

<https://bsd405.org/departments/records/public-records/>

“If the record requested for inspection and/or copying contains both information exempted from disclosure and nonexempt information, the District will produce as much of the record as possible, with the exempt portion redacted, and will provide a written explanation for the redaction.”

Please search for and provide digital video recordings of classroom sessions and redact where appropriate.

Generally, with respect to other types of recordings

Please see the following links to the District's website, where recent District-wide town hall meetings and other types of recordings may be or may have been posted Facebook, Twitter, and Instagram <links omitted>

Response: Thank you.

Clarification Questions

Assembly and review work is proceeding with respect to the other types of recordings you have identified, i.e., "internet-based video calls," "meetings," "training sessions," and "town halls." Before the District will be able to proceed, your answers to the following clarification questions will be required.

Clarification Questions

1. Some "town halls" are conducted at the District level and some are conducted at a school building level. The District has 29 schools, any of which may have conducted and recorded "town halls" with its student and parent communities. Many town hall meetings, especially at the building level, are likely to contain information protected by FERPA (cited above). Please advise if you are interested only in recordings of District-wide town hall meetings.

Again, please refer to my response regarding the production of digital video recordings of classroom sessions and Bellevue School District policy regarding providing as much of the record as possible, with the exempt portions redacted, and then providing a written explanation for any redactions.

I am requesting all digital video recordings for the time period specified.

2. Digital recordings of "internet-based video calls, meetings, [and] training sessions" are not centrally maintained. Retrieval of such recordings would require communication with approximately 2,500 District employees who may have recorded such a call, meeting, or training session. The volume of potentially responsive records may be exceedingly high and may require hundreds or thousands of hours of content review to identify exempt material. If exemptions apply, a technologically complicated and extremely time-consuming redaction process may be required, for which you would likely have to pay, because the District does not have the technological and staff resources to perform such redactions, especially on a massive scale. Please clarify whether you will continue to seek such records, and, if so, specify your request, e.g., by type of content, dates, or originator, so that the District can efficiently provide you with information that is in fact meaningful to you.

Response:

It is unfortunate the District has chosen not to centrally maintain digital video recordings subject to public record requests. It may be prudent for the District to draft policy (should no policy currently be in place) governing the approximately 2,500 District employees who are directed or may choose to produce digital video recordings subject to public records requests.

As you know under the Public Records Act, agencies cannot charge for the time staff time spend locating a public record or making it available for inspection (including any time spent reviewing or redacting records).

The Bellevue School Board found that it would be "unduly burdensome to calculate the actual costs of providing copies of public records, given the multiple electronic and manual devices used to do so, as well as the fluctuating costs of District supplies, equipment, and labor."

Accordingly, the District adopted the "Statutory default cost" option for calculating fees:

"The District has determined it will not calculate actual costs for copying records for the reasons set forth in Policy 4040. The District will apply the fees and costs as authorized in RCW 42.56.120 and as published in the agency's fee schedule."

The fees for production of digital video recordings under the statutory default cost option are as follows:

Electronic Documents: \$0.05 per every four electronic files and/or email.

Transmission of electronic records: \$0.10 per gigabyte.

A 1 Hour time length digital video recording of a ZOOM online video meeting results in a digital video file of approximately 1.2 gigabytes in size. Using these approximate calculations (4) 1-hour digital video recordings (1.2 Gb in size) produced by the district would generate fees of $(4 \text{ files}) \times (.05) \times (.10) = .60$ or 60 cents. The fees may be marginally higher should the District choose to produce the requested files on CD-ROM. The District may charge the requestor for the cost of the CD-ROM itself as well as any postage.

If in the regular course of agency business the District and its approximately 2,500 public employees have the technological capability to record and store digital videos on publicly owned computers and devices, the District certainly has the staff and technological ability to produce these digital videos subject to the Public Records Act.

To answer your question "Please clarify whether you will continue to seek such records, and, if so, specify your request" I do continue to seek such records. I have specified the records requested for a specific time period in my original public records request.

For efficiencies sake I would suggest the District designate a central digital repository on District computer servers to store all digital video files subject to public record requests and then to instruct all District employees to upload any digital video recordings for the requested time period to the designated central digital repository for review and production under the PRA.

Of course recording, storing, and digitally transmitting digital video files is not technologically complicated and also comprises a regular function of various District employees on a daily basis.

3. Digital recordings of "training sessions" are likely to be subject to copyright protection, and trade secret or other proprietary exemptions. A consideration of the release of such recordings would in most cases require review by the content owner or originator, to identify protected content. If exemptions apply, a technologically complicated and extremely time-consuming redaction process may be required, for which you would likely have to pay, because the District does not have the technological and staff resources to perform such redactions, especially on a massive scale. Please clarify whether you will continue to seek such records, and, if so, specify your request, e.g., by type of content, dates, or originator, so that the District can efficiently provide you with information that is in fact meaningful to you.

Copyright is subject to certain limited exemptions and the District should redact accordingly. I do continue to seek these records. Please see my earlier responses.

4. Additionally, although you state that your request is not commercial in nature, in many cases the digital recordings of "internet-based video calls, meetings, training sessions [and] town halls" would inherently contain lists of individuals, identifiable by the fact that they would in many cases be shown as signed in to the call, meeting, training session, or town hall. Therefore, your request for such materials requires a commercial purposes inquiry. Please complete the attached Commercial Purpose Declaration within 30 days if you intend to proceed with these portions of your request. If you do not return the Declaration, your request will be closed.

Response regarding your commercial purpose inquiry and declaration:

The PRA prohibits the disclosure of "lists of individuals" for a commercial purpose (RCW 42.56.070(8)). Digital video recordings by their very nature do not contain an electronic record that can be sorted as could an Excel spreadsheet or Word document. I renew my declaration contained in my original public records request: I am not seeking a list of any kind, nor a list of individuals or businesses.

In my original public records request I specifically declared the request was not being made for commercial purposes, a requirement of the Public Records Act. I incorporate by reference my original public records request and declaration dated 4-22-21:

“Request for digital copies of all internet video call recordings in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21 (Bellevue School District).”

This declaration satisfies all requirements of RCW 42.56 regarding prohibitions on lists and commercial purposes.

This concludes my response to your requests for clarification.

I look forward to the District production of non-exempt digital video recordings.

Thank you.

From: Bellevue School District

05/07/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

Thank you for that prompt response. Please refer to the PRR number above in the subject line of your correspondence with the District.

Costs

Your response neglects to refer to the customized service charge provision at page 7 of the District's Procedure 4040P, <https://bsd405.org/wp-content/pdf/policy/4040P.pdf>.

In order to develop a centralized location for storage and access services for what may be thousands of hours of digital video recordings, and to acquire and/or develop the technology expertise to prepare that compiled data for production to you, when such compilations and customized access services are not used by the District for any other District purpose, the District would have to assess a customized service charge.

Please advise if you would like to amend your request in order to avoid or reduce the cost of a customized service charge.

Additionally, the District's Procedure at pp 7-8 permits it to make an alternative fee arrangement with any requestor in response to a voluminous request.

It may be possible to discuss an arrangement, for example, by which you could partially reduce the cost of a customized service charge by inspecting the recorded videos in person and selecting those records of which you wish to obtain a copy. We could consider setting up an area in which you could inspect such recordings. You would not be permitted to take any kind of recording device into that area.

Declaration of Commercial Purpose

There is nothing in RCW 42.56.070(8) that states that a list must be in Excel or another sortable format to be subject to the commercial purpose declaration. The names of participants in many digital

recordings are in the form of lists. Please complete the Commercial Purpose Declaration, which I have again attached for your reference, by June 2, 2021.

I will await your response.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Anon Request

05/25/2021

May 10, 2021

PRR 04262021-Anon-Muckrock

Hello Ms. Boyer,

Please see my responses to your communication of 05-07-2021:

Thank you for that prompt response. Please refer to the PRR number above in the subject line of your correspondence with the District.

Costs

Your response neglects to refer to the customized service charge provision at page 7 of the District's Procedure 4040P, <https://bsd405.org/wp-content/pdf/policy/4040P.pdf>.

Response: No customized service charge applies to this public records request.

See RCW 42.56.120 (3)(a)(i):

"A customized service charge may only be imposed if the agency estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other agency purposes."

This public records request does not seek a data compilation, only digital video recordings.

This public records request does not require customized electronic access services not used by the District for other District purposes.

This public records request is seeking copies of digital video recordings in the care, control, or possession of the District.

The District can produce these recordings without the need for special or extraordinary information technology personnel, hardware, or software.

The digital video recordings requested were not generated or created by specialized information technology personnel, and no special information technology is required to produce digital recordings in response to this request.

The District bears the burden of redacting public records (including digital video recordings) and cannot charge the records requestor for the time and cost of redaction.

The District can charge for the copy and transmission of these digital video recordings at the rates per file and per GB transmitted as previously established.

In order to develop a centralized location for storage and access services for what may be thousands of hours of digital video recordings, and to acquire and/or develop the technology expertise to prepare that compiled data for production to you, when such compilations and customized access services are not used by the District for any other District purpose, the District would have to assess a customized service charge.

Response: The District need not develop any centralized location for storage and access of digital video recordings. In my previous response to you I was simply making a suggestion as to how (in my personal opinion) the District could more efficiently process digital video recordings as public records. The District is under no obligation to create a central repository for digital video recordings and I am not requesting the District do so.

Please advise if you would like to amend your request in order to avoid or reduce the cost of a customized service charge.

Response: As I stated earlier, no customized service charge is warranted for this public records request for digital video recordings. If you feel I am mistaken, please explain as per RCW 42.56.120 (3)(b):

1. Please explain why a customized service charge applies?
2. Please provide a description of the specific expertise warranting the application of a customized service charge.
3. Please provide a reasonable estimate of the cost of the customized service charge.

Additionally, the District's Procedure at pp 7-8 permits it to make an alternative fee arrangement with any requestor in response to a voluminous request.

It may be possible to discuss an arrangement, for example, by which you could partially reduce the cost of a customized service charge by inspecting the recorded videos in person and selecting those records of which you wish to obtain a copy. We could consider setting up an area in which you could inspect such recordings. You would not be permitted to take any kind of recording device into that area.

Response: No thank you.

Declaration of Commercial Purpose

There is nothing in RCW 42.56.070(8) that states that a list must be in Excel or another sortable format to be subject to the commercial purpose declaration. The names of participants in many digital recordings are in the form of lists. Please complete the Commercial Purpose Declaration, which I have again attached for your reference, by June 2, 2021.

Response: You are correct, nothing in RCW 42.56.070(8) states a list must be in Excel or a sortable format. I was only attempting to provide an example of what the courts and Washington State Statute has defined as a "list" under RCW 42.56.070(8). In any event, the application of RCW 42.56.070(8) concerns a public records request seeking a "list" of natural individuals.

With all due respect, the names of participants displayed in a digital video recording is not a "list" as defined by RCW 42.56.070(8):

"This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the administrative procedure act."

Just as an email or any other document also not a "list," the District has the option to redact any names that might be displayed in a digital video recording based on a valid exemption should there be one.

The Commercial Purpose Declaration form (affidavit) which you have provided titled "REQUEST FOR LIST OF NAMES" does not apply to this Public Records request as no list of names was requested in the original public records request and the District has the option to redact any responsive videos files produced under the law.

This concludes my response.

I look forward to the District production of non-exempt digital video recordings as soon as possible.

Thank you.

From: Muckrock Staff

05/25/2021

To Whom It May Concern:

I wanted to follow up on the following Washington Public Records Act request, copied below, and originally submitted on April 22, 2021. Please let me know when I can expect to receive a response.

Thanks for your help, and let me know if further clarification is needed.

From: Bellevue School District

05/25/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

A second installment responsive to your request, received April 26, 2021, is being prepared and is expected to be released to you on or before May 26, 2021.

If, as you appear to assert, you do not have a commercial purpose, please return a completed Commercial Purpose Declaration. This is to your advantage if in fact you have no commercial purpose. The District is authorized to make these inquiries of you. The Declaration is due on or before June 2, 2021. I have, for a third time, attached a blank Declaration to you for completion.

The District's position is that you are requesting a "list" in Washington State as that term is used in RCW 42.56.070(8).

If the header "Request for List of Names" in the Declaration does not apply, in your opinion, to your request, you have the option to strike it and initial the strikeout. However, you are required to return a completed Declaration that is otherwise fully responsive.

If maintaining your anonymity is a concern, please note that your request, as maintained on the District's request log, would still reflect that it was made by an anonymous requestor. I could agree to continue to correspond with you on an anonymous basis. However, your name and signature are required on the Declaration.

The District is continuing to determine whether a customized service charge will be required.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Bellevue School District

05/27/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

Work is ongoing with respect to the next planned installment. I am hopeful you will have additional records this week, by May 28, 2021.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Bellevue School District

05/27/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

On behalf of the Bellevue School District, I am making a second installment to your request received April 26, 2021:

Digital copies of all video recordings of internet-based video calls, meetings, training sessions, town halls, school board meetings, and google classroom sessions in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21.

Further with respect to the categories of video recordings of internet-based meetings, training sessions, town halls, and school board meetings, please see the following link to the District's YouTube channel:

<https://www.youtube.com/channel/UCb4Hoh9cTgXul7qYHH1nwmA>

You may sort by date on the Channel.

In this second installment and the District's first installment on May 3, 2021, you have been provided with links to the District's centrally stored video recordings, on its website, on the specialized section of the website for Board materials, and on the District's Facebook, Instagram, Twitter, and YouTube sites.

The District has advised you that where students are present or referred to in any video call or recorded classroom session, those records are fully exempt. You cannot walk in off the street into a parent or student meeting with a teacher, or into a classroom of students. Similarly, you are not entitled to the content of digital video calls with parents or students, or to the content of a remotely conducted classroom.

Please advise if the extensive records you have been provided are sufficient for your purposes.

As set forth in my message to you dated May 3, 2021, a next phase of records production would require disruptive and time-consuming recovery from individual employees, added storage capacity, extensive and time-consuming copying of recorded video into redactable formats and/or for the purpose of creating a copy for redaction, and review, analysis, and anticipated redaction of exempt material. This is likely to require the purchase of hardware and software that is not presently available to nor within the technical expertise of staff that responds to public records. As I have advised you, the District is evaluating the costs of customized service charges that would be associated with those purchases and tasks. The copying is likely to require software and hardware purchases, training, and added staff. There may also be additional costs of storage devices and data transmission for which you would be responsible.

If you require additional records, I estimate a next installment in response to your request will be September 23, 2021. This estimate considers the factors described above, as well as the fact that many of the staff from whom such records would be assembled will soon be leaving for the summer break.

Additionally, the District cannot proceed further until it receives and has evaluated a completed and signed Commercial Purpose Declaration, for the reasons that have been explained to you. The Declaration is due on or before June 2, 2021.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Anon Request

05/29/2021

May 29, 2021

Hello Ms. Boyer,

Thank you for your communications dated 5-25-21 and 5-27-21.

My response is as follows:

YOU STATED:

“Dear Requestor:

On behalf of the Bellevue School District, I am making a second installment to your request received April 26, 2021:

Digital copies of all video recordings of internet-based video calls, meetings, training sessions, town halls, school board meetings, and google classroom sessions in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21.

Further with respect to the categories of video recordings of internet-based meetings, training sessions, town halls, and school board meetings, please see the following link to the District's YouTube channel:

<https://www.youtube.com/channel/UCb4Hoh9cTgXul7qYHH1nwmA>

You may sort by date on the Channel.”

MY RESPONSE:

Thank you for the links to the District's website, YouTube channel, Twitter feed, Facebook and Instagram accounts. However please note, the original public records request is for "Digital copies of all video recordings of internet-based video calls, meetings, training sessions, town halls, school board meetings, and google classroom sessions..." The various links you have provided do not contain any digital copies of the video recordings originally requested. Also, the links do not provide information about what digital video files have been produced, and which have been withheld in their entirety, nor which digital video files have been edited and for what reason.

To be clear, this public records request is seeking digital copies of specific digital media files, not links to stream partial content of the original files without a detailed exemption log explaining what has been withheld and why.

YOU STATED:

"Please advise if the extensive records you have been provided are sufficient for your purposes."

MY RESPONSE:

Hyperbole aside, no requested records (digital media files) have been produced. Links to 3rd party subscription based streaming media sites are not the records that have been requested.

YOU STATED:

"The District has advised you that where students are present or referred to in any video call or recorded classroom session, those records are fully exempt. You cannot walk in off the street into a parent or student meeting with a teacher, or into a classroom of students. Similarly, you are not entitled to the content of digital video calls with parents or students, or to the content of a remotely conducted classroom."

MY RESPONSE:

With all due respect, any recorded digital video files (records) in the possession of the District where students are present or referenced are NOT FULLY EXEMPT. Rather these digital video files could potentially be partially exempt and some exemptions may be subject to redaction by the District. Any such exemptions applied are required to be recorded in an accompanying detailed exemption log for review by the requestor.

Examples of what may not be fully exempt in any digital media file: the name of the digital media file, the type of file, the size of the file, various nonexempt portions of the file video content, the length of the recording, the date the file was created, and possibly much more.

All citizens are “entitled” to review and/or copy public records in the District’s care, custody, or control subject to redaction by the District based on valid legal exemptions. Exemptions which the District is required to detail in an exemption log provided to the requestor for review.

Question: Is the District’s position that all digital video files in which a student is present or referenced are fully exempt and therefore will not be produced?

Question: If in fact it is the District’s position is that digital video files in which a student is present are fully exempt, is the District going to provide the required detailed exemption logs to the requestor, listing which digital video files are exempt and why?

YOU STATED:

“As set forth in my message to you dated May 3, 2021, a next phase of records production would require disruptive and time-consuming recovery from individual employees, added storage capacity, extensive and time-consuming copying of recorded video into redactable formats and/or for the purpose of creating a copy for redaction, and review, analysis, and anticipated redaction of exempt material. This is likely to require the purchase of hardware and software that is not presently available to nor within the technical expertise of staff that responds to public records. As I have advised you, the District is evaluating the costs of customized service charges that would be associated with those purchases and tasks. The copying is likely to require software and hardware purchases, training, and added staff. There may also be additional costs of storage devices and data transmission for which you would be responsible.”

MY RESPONSE:

The District’s responsibilities under the Public Records Act are clear. To address your comments point by point:

“disruptive and time-consuming recovery from individual employees”

Please see WAC 44-14-04003(3) “The agency should recognize that fulfilling public records requests is one of the agency’s duties, along with its others.” These public employees created digital video files that are now public record. It is certainly not “disruptive” for public employees to produce identifiable public records.

“added storage capacity”

Question: Why the need for added storage capacity? Regardless, irrelevant under the Public Records Act.

“extensive and time-consuming copying of recorded video into redactable formats and/or for the purpose of creating a copy for redaction”

Again, irrelevant. All costs of preparation for responsive documents and any redactions if required is the sole responsibility of the District. No costs for collation or redaction may be passed on to the original requestor under the act. See WAC 44-14-07001:

WAC 44-14-07001 General rules for charging for copies.

(1) No fees for costs of locating records or preparing records for inspection or copying. An agency cannot charge a fee for locating public records or for preparing the records for inspection or copying. RCW 42.56.120.1 An agency cannot charge fees for a person to inspect or access records on the agency's public internet web site. An agency cannot charge a fee for access to or downloading records the agency routinely posts on its public internet web site prior to the receipt of a request unless the requestor has specifically requested that the agency provide copies of such records through other means. RCW 42.56.120 (2)(e).

An agency cannot charge a "redaction fee" for the staff time necessary to prepare the records for inspection, for the copying required to redact records before they are inspected, or an archive fee for getting the records from off-site. Op. Att'y Gen. 6 (1991). These are the costs of making the records available for inspection or copying and cannot be charged to the requestor.

"This is likely to require the purchase of hardware and software that is not presently available to nor within the technical expertise of staff that responds to public records."

Untrue however if so, also irrelevant. As clearly stated, the District cannot assess fees for costs of locating records or preparing records for inspection or copying. The District is in possession of public records in the form of digital media files. These public records have been identified and requested per the Public Records Act and the District is required to produce these records in compliance with the act."

"As I have advised you, the District is evaluating the costs of customized service charges that would be associated with those purchases and tasks. The copying is likely to require software and hardware purchases, training, and added staff. There may also be additional costs of storage devices and data transmission for which you would be responsible."

MY RESPONSE:

As I requested previously, please provide a detailed accounting of the customized service charge the District believes applies to this public records request. I believe once the District produces a detailed record of any proposed customized service charge it will be simple to demonstrate the District is in error, and no customized service charge applies to this public records request under the PRA (RCW 42.56).

YOU STATED:

"If you require additional records, I estimate a next installment in response to your request will be September 23, 2021. This estimate considers the factors described above, as well as the fact that many of the staff from whom such records would be assembled will soon be leaving for the summer break."

MY RESPONSE:

As I previously stated, no requested records have been produced by the District to date, and my previous request for the District to provide a detailed accounting of any proposed customized service charge is still outstanding. District staff vacations do not relieve the District of its responsibilities under the public records act.

Additionally the District should advise all employees, volunteers, contractors, and any other 3rd parties who may have care, custody, or control of any digital video files originally requested in PRR 04262021 to preserve these public records until this request is resolved.

Please consider WAC 44-14-04003(9) as constructive notice:

“WAC 44-14-04003(9) Preserving requested records. If a requested record is scheduled shortly for destruction, and the agency receives a public records request for it, the record cannot be destroyed until the request is resolved. RCW 42.56.100.8 Once a request has been closed, the agency can destroy the requested records in accordance with its retention schedule.”

YOU STATED:

“Additionally, the District cannot proceed further until it receives and has evaluated a completed and signed Commercial Purpose Declaration, for the reasons that have been explained to you. The Declaration is due on or before June 2, 2021.”

MY RESPONSE:

I previously addressed your multiple requests for a signed “REQUEST FOR LIST OF NAMES” document.

Digital video files are not a “list” as defined in RCW 42.56.070(8).

The Commercial Purpose Declaration form (affidavit) which you have provided titled “REQUEST FOR LIST OF NAMES” does not apply to this Public Records request as no list of names was requested in the original public records request and the District has the option to redact any names that might be displayed as a list in any digital video recording based on a valid exemption should there be one.

Question: Is it the District’s position that PRR 04262021 – this request for copies of digital video files will not proceed without the requestor signing the District’s “REQUEST FOR LIST OF NAMES” document?

At this point it certainly appears that the District is not applying a good faith interpretation of the statutes governing public records, nor providing “fullest assistance” and “most timely possible action” (WAC 44-14-04003(3)) in processing PRR 04262021.

The District is constructively denying the processing of this public records request. I formally request an immediate denial review of PRR 04262021 by District legal counsel. If in a reasonable amount of time a denial review by the District does not provide the relief requested, I reserve the right under RCW 42.56.550 to seek Judicial review of the District’s position in Superior Court.

This concludes my response.

I look forward to the District production of non-exempt digital video recordings as soon as possible.

Thank you.

From: Bellevue School District

06/01/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

On May 29, you appear to object, for the first time, following the District's first installment to you dated May 3, 2021, and its second installment to you dated May 27, 2021, that you are not able to retrieve digital video recordings that you have requested, which are posted on the District's public sites at the links that have been provided to you. You state, "The various links you have provided do not contain any digital copies of the video recordings originally requested." That is not correct. You have been provided with access to hundreds of original digital video recordings that are responsive to your request.

Referring a requestor by means of a link to an agency's publicly maintained webpage or website, on which requested records are or may be posted, is an appropriate manner in which to respond to a public records request.

I do not understand your objection in this regard. If you need assistance retrieving the digital video recordings posted on the sites to which I have provided links, please advise.

With respect to the Commercial Purposes Declaration, you have pointed out that it contained a caption, "Request for List of Names." I offered to you the option of striking out that caption, and initialing your strikeout, if you believed the caption did not apply. To accommodate you further, I have attached a revised version of the Declaration in which that caption is removed. You may complete this version of the Declaration if you prefer. I will extend the due date for returning the Declaration, for your convenience, to June 8, 2021.

As you acknowledged on May 10, there is nothing in RCW 42.56.070(8) that states that a list is defined as one in Excel or another sortable format. A request that seeks a list of individuals is subject to an inquiry under RCW 42.56.080(2). The names of participants in many digital recordings are shown within the recording. For that reason, it is appropriate for the District to conduct an inquiry under RCW 42.56.080(2).

I have not represented that the District does not intend to produce additional records. To the contrary, I have appropriately informed you of the estimated timeframe for producing such records, and have explained the factors affecting that estimate.

As earlier noted, the District is evaluating a customized service charge.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Bellevue School District

06/01/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

With respect to your request for a “immediate denial review of PRR 04262021 by District legal counsel,” I understand you to be referring to Procedure 4040P, Public Access to District Records, <https://bsd405.org/wp-content/pdf/policy/4040P.pdf> ,

which provides at page 8:

Internal Review of Denials of Public Records

Petition for Internal Administrative Review of Denial of Access

Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.

Consideration of Petition for Review

The Public Records Officer shall promptly refer the petition to a District official designated to conduct the review, who will immediately consider the petition and either affirm or reverse the denial within two business days following the District’s receipt of the petition, or within such other time to which the District and the requestor mutually agree.

If you intend to request an internal review, you may petition in writing under Procedure 4040P. “The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.”

Your request has not been denied. You have been provided access to hundreds of digital copies of video recordings as you requested. Also, you have been provided with an estimated date of September 23, 2021 for a third installment.

If your request for a review under Procedure 4040P is intended to address the question of the District’s inquiry as to a commercial purpose under RCW 42.56.080(2), please identify that issue in the petition.

It is the District’s position that it has the right and statutory obligation under RCW 42.56.080(2) to conduct such an inquiry with respect to your request. The Declaration forms you have been provided explain the statutory basis for this obligation. Until you submit a completed and signed Commercial Purposes Declaration, and the District has completed its inquiry, the District will not be able to proceed to process additional potentially responsive recordings. The reason for this is that additional potentially

responsive recordings may contain auditory and/or visual lists of individuals. In order to properly respond further to your request, and to avoid duplicative review and processing, the District needs to complete its inquiry as to whether your request has a commercial purpose.

Please advise whether you will complete the Commercial Purposes Declaration provided to you earlier today, as revised (attached), by the extended deadline of June 8, 2021.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Anon Request

06/04/2021

Subject: PRR 04262021

June 4, 2021

Hello Ms. Boyer,

Thank you for your communications dated 6-1-21.

My response is as follows:

YOU STATED:

“Dear Requestor:

On May 29, you appear to object, for the first time, following the District’s first installment to you dated May 3, 2021, and its second installment to you dated May 27, 2021, that you are not able to retrieve digital video recordings that you have requested, which are posted on the District’s public sites at the links that have been provided to you. You state, “The various links you have provided do not contain any digital copies of the video recordings originally requested.” That is not correct. You have been provided with access to hundreds of original digital video recordings that are responsive to your request.

Referring a requestor by means of a link to an agency’s publicly maintained webpage or

website, on which requested records are or may be posted, in an appropriate manner in which to respond to a public records request.

I do not understand your objection in this regard. If you need assistance retrieving the digital video recordings posted on the sites to which I have provided links, please advise.”

MY RESPONSE:

You provided links to STREAM or VIEW digital videos online. I have requested COPIES of the digital video media files themselves. The links you have sent do not provide a digital copy of the original video, which is what was originally requested.

From Wikipedia on the nature of Streaming Media:

Streaming media is multimedia that is delivered and consumed in a continuous manner from a source, with little or no intermediate storage in network elements. Streaming refers to the delivery method of content, rather than the content itself.

Streaming is an alternative to file downloading, a process in which the end-user obtains the entire file for the content before watching or listening to it.

The links you provided to STREAM the digital video files all stream videos that appear to have been edited. What content has been edited from the original videos? What are the file names of each digital video file? When was each digital file created? In what format was each digital video file stored? Why have you not provided exemption logs explaining what content was redacted or edited from each digital media file and why? Which digital video files have been withheld in their entirety and why?

You provided “access” to STREAMS of “original” digital video recordings that have been edited. You are correct in that if I had requested to “view” various digital video streams, the District providing a link to publicly maintained websites to “view” the content of the videos would most likely satisfy such a request. Links to stream video files do not satisfy this public records request.

This request is and always has been for DIGITAL COPIES of the ORIGINAL DIGITAL MEDIA VIDEO FILES themselves. Preferably unedited and unredacted except where allowed by law, each file produced in its original native digital media format. Delivered to the requestor via internet link or in the alternative on data CD-ROM.

If in fact the links you have provided can provide an original copy of the original digital media video files

requested in original native digital format unedited, with the original dates of creation and file names attached, then yes I do require assistance. I am unaware as to how to receive original unedited digital video files from YouTube and Facebook Links.

Please see this partial YOUTUBE Terms of Service Agreement:

<https://www.youtube.com/static?template=terms>

“...Permissions and Restrictions

You may access and use the Service as made available to you, as long as you comply with this Agreement and applicable law. You may view or listen to Content for your personal, non-commercial use. You may also show YouTube videos through the embeddable YouTube player.

The following restrictions apply to your use of the Service. You are not allowed to: access, reproduce, download, distribute, transmit, broadcast, display, sell, license, alter, modify or otherwise use any part of the Service or any Content except: (a) as expressly authorized by the Service; or (b) with prior written permission from YouTube and, if applicable, the respective rights holders...”

As the service agreement states “you are not allowed to... download” among other things the original video files themselves. Please provide digital copies of all requested digital media files.

YOU STATED:

“With respect to the Commercial Purposes Declaration, you have pointed out that it contained a caption, “Request for List of Names.” I offered to you the option of striking out that caption, and initialing your strikeout, if you believed the caption did not apply. To accommodate you further, I have attached a revised version of the Declaration in which that caption is removed. You may complete this version of the Declaration if you prefer. I will extend the due date for returning the Declaration, for your convenience, to June 8, 2021.”

Text from your “revised” Commercial Purposes Declaration PRR 04262021:

“Washington law prohibits the Bellevue School District from providing access to lists of individuals when such lists are requested for commercial purposes. RCW 42.56.070(8).”

MY RESPONSE:

I have requested no list of individuals and this public records request is not for commercial purposes.

RCW 42.56.080(2):

“ The Public Records Act expressly authorizes an agency to inquire as to a requestor’s purpose when necessary, to determine whether the requestor is seeking a list of individuals for commercial purposes. RCW 42.56.080(2).”

This public records request is not for commercial purposes of any kind. No list has been requested.

YOU STATED:

“The District cannot process your request without a signed declaration stating the purpose of your request.”

MY RESPONSE:

I object. This statement is a violation of the Public Records Act:

RCW 42.56.080

Identifiable records—Facilities for copying—Availability of public records.

(2) Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons.

RCW 42.56.070(8)

This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the administrative procedure act.

RCW 42.56.070(8) does not apply. Digital video files are not “lists of individuals requested for commercial purposes.”

RCW 42.56.240(14):

Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

RCW 42.56.240(14) does not apply. The District is not a law enforcement agency. No body worn camera videos have been identified to date in this records request.

YOU STATED:

“If the District has not received a completed declaration within thirty (30) days of today’s date, your request will be closed.”

This District lacks the statutory authority to close this public records request without due process. Please advise if the District has closed this records request. If so, it is this requestor’s intention to seek equitable relief in Superior Court.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"I, <Printed name of Requestor> have made a public records request for a list of individuals."

I have made no such request.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"My request was made for, on behalf of, or with an intent to provide or consider providing the response to, the following person or persons, entity, association, or organization (if applicable):"

Not applicable.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"The purpose of my request for a list of individuals is:"

Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"I hereby declare, under penalty of perjury under the laws of the State of Washington, that the list of individuals that I have requested from the Bellevue School District will not be used for any commercial purpose."

I have requested no list of individuals and this public records request is not for commercial purposes.

YOU STATED:

"The names of participants in many digital recordings are shown within the recording. For that reason, it is appropriate for the District to conduct an inquiry under RCW 42.56.080(2)."

My answer to the District's inquiry: I have requested no list of individuals for a commercial purpose. No portion of this public records request seeks a list of individuals and no portion of this public records request is for a commercial purpose of any kind.

This records request is for "digital copies of all internet video call recordings in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21" requests digital copies of specific identifiable and subsequently identified public records.

It is in the best interests of the public that the District preserve all digital video file public records requested, and provide copies of these public records as requested as soon as possible.

Thank you.

From: Bellevue School District

06/04/2021

PRR 04262021-Anon-Muckrock

Dear Requestor:

You do not address in your response below my second email to you on June 1 at 5:17 PM Pacific Time with respect to your request for an internal review of your request under Procedure 4040P. I intend to assist you promptly if it is your intention to proceed in that regard. Please advise if you intend to proceed with an internal review. If so, please identify precisely the issues you wish to have reviewed by submitting a petition as described in Procedure 4040P. I will be able to refer a petition for an internal review upon receipt of a petition.

It is my understanding that videos posted on the sites I have provided to you can be downloaded. I will check further on that with our IT Department and advise further.

You state, "You provided "access" to STREAMS of "original" digital video recordings that have been edited." (Emphasis in your text.) I am not aware of editing that may have been done in any of the posted videos, or how you may have formed such an opinion by viewing them. My understanding is that the posted videos are original, final records. Board of director meeting videos, for example, would not have been edited prior to being posted on BoardDocs and the District's YouTube Channel.

If in a particular case there may have been an earlier version of a posted video, it is possible that the creator may have a draft of the video, which may be exempt under RCW 42.56.280, or which may have been in the form of an informal note and not a public record.

You also inquire about the name and date of videos, and their format. The name and date of posting are viewable in the platforms to which you have been given access. Dates of creation may be additionally stated within a video, if a video was created before it was posted. The records speak for themselves as to these questions.

As I have explained, by providing you the hundreds of videos you have been provided to date, the District is not concluding your request. Rather, the District has promptly provided to you the readily available records that exist. The District is not asserting exemptions in the videos you have been provided. The process of assembling additional videos created and maintained by individual staff persons is an enormous and lengthy task, for the reasons I have described to you.

Finally, please note that it is part of the District's recordkeeping system that your PRR request number appear at the beginning of the subject line of emails pertaining to your request. In some of my reply correspondence to you, your subject line has been too long to permit the PRR number to be inserted, so I have had to delete or truncate some of your subject line. I would appreciate it if you can shorten your subject line in some manner and include the PRR number in all of your correspondence to this office.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405

publicrecords@bsd405.org<mailto:publicrecords@bsd405.org>

From: Anon Request

06/14/2021

Subject: PRR 04262021

June 14, 2021

Hello Ms. Boyer,

Thank you for your communications dated 6-4-21.

My response is as follows:

YOU STATED:

"Dear Requestor:

You do not address in your response below my second email to you on June 1 at 5:17 PM Pacific Time with respect to your request for an internal review of your request under Procedure 4040P. I intend to assist you promptly if it is your intention to proceed in that regard. Please advise if you intend to proceed with an internal review. If so, please identify precisely the issues you wish to have reviewed by submitting a petition as described in Procedure 4040P. I will be able to refer a petition for an internal review upon receipt of a petition.

It is my understanding that videos posted on the sites I have provided to you can be downloaded. I will check further on that with our IT Department and advise further.”

MY RESPONSE:

I request an internal review per Procedure No. 4040P - Public Access to District Records. My petition for internal review follows at the end of this communication.

YOU STATED:

“You state, “You provided “access” to STREAMS of “original” digital video recordings that have been edited.” (Emphasis in your text.) I am not aware of editing that may have been done in any of the posted videos, or how you may have formed such an opinion by viewing them. My understanding is that the posted videos are original, final records. Board of director meeting videos, for example, would not have been edited prior to being posted on BoardDocs and the District’s YouTube Channel.

If in a particular case there may have been an earlier version of a posted video, it is possible that the creator may have a draft of the video, which may be exempt under RCW 42.56.280, or which may have been in the form of an informal note and not a public record.

You also inquire about the name and date of videos, and their format. The name and date of posting are viewable in the platforms to which you have been given access. Dates of creation may be additionally stated within a video, if a video was created before it was posted. The records speak for themselves as to these questions.”

MY RESPONSE:

To date you have provided zero requested records. No exemption logs of records you allege to have produced have been provided. No digital copies of any digital videos requested have been provided.

You have provided links to the following 3rd party services, none of which provide digital copies of the digital video files requested:

FACEBOOK

<https://www.facebook.com/bsd405>

NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

INSTAGRAM

<https://www.instagram.com/bellevueschools405/>

NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

TWITTER

<https://twitter.com/TheBSD405>

NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

YOUTUBE

NO ACCESS. NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

BOARDDOCS® A DILIGENT BRAND, © 2002-2021

District website: <https://bsd405.org/>

NO DIGITAL VIDEO FILES AVAILABLE FOR DOWNLOAD.

Again, none of the requested records have been provided. No exemption logs have been provided.

YOU STATED:

“As I have explained, by providing you the hundreds of videos you have been provided to date, the District is not concluding your request. Rather, the District has promptly provided to you the readily available records that exist. The District is not asserting exemptions in the videos you have been provided. The process of assembling additional videos created and maintained by individual staff persons is an enormous and lengthy task, for the reasons I have described to you.

MY RESPONSE:

No requested records have been provided. No exemption logs have been provided. The process of locating and providing copies of the digital video files originally requested (public records that have been properly identified under the PRA) is the legal obligation and responsibility of the District. Continuing to argue and object about the scope of the task is prohibited by the Public Records Act.

This public records request is not vague, nor overly broad in nature.

This public records request is for identifiable records.

This public records request does not seek records extraordinary in nature, nor does the request seek a complication of records to be produced, nor does the request seek a list or lists of any kind.

This public records request is in the best interest of the general public.

The District has the option to produce the public records in installments over time.

To date, the District has not produced a single record, nor has the District produced an exemption log of any kind.

YOU STATED:

“Finally, please note that it is part of the District’s recordkeeping system that your PRR request number appear at the beginning of the subject line of emails pertaining to your request. In some of my reply correspondence to you, your subject line has been too long to permit the PRR number to be inserted, so I have had to delete or truncate some of your subject line. I would appreciate it if you can shorten your subject line in some manner and include the PRR number in all of your correspondence to this office.

Best regards,

Helen A. Boyer

Public Records Officer

Bellevue School District No. 405”

MY RESPONSE:

I am not sure I understand what you are asking, however I will endeavor to do my best in assisting you with your internal record keeping if possible.

PETITION FOR INTERNAL REVIEW [THIS PETITION]

This concludes my response.

I look forward to the District production of non-exempt digital video recordings as soon as possible.

Thank you.