

To: Helen A. Boyer  
Public Records Officer  
Bellevue School District No. 405  
[publicrecords@bsd405.org](mailto:publicrecords@bsd405.org)

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.