

August 9, 2018

VIA EMAIL AND OVERNIGHT DELIVERY

Records Access Officer
New York City Department of Education
Freedom of Information Law Unit, Office of the General Counsel
52 Chambers Street, Room 308
New York, New York 10007

Re: Freedom of Information Law Request

Dear Freedom of Information Law Records Access Officer:

The NAACP Legal Defense & Educational Fund, Inc. (“LDF”) makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, pursuant to New York Public Officers Law §§ 84-90. We respectfully request that you provide us with the following information within five business days of your receipt of this letter:

- (1) All documents, including but not limited to, training materials, policies, procedures, regulations, protocols, and guidelines utilized by New York City Department of Education (“DOE”) employees¹ that reflect the DOE’s definition for the following terms:
 - a. Crew
 - b. Gang

- (2) All documents, including but not limited to, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees that reflect the DOE’s definition for the following terms:
 - a. Gang-related behavior
 - b. Gang appeal
 - c. Gang accessories
 - d. Gang graffiti
 - e. Gang gestures

¹ For purposes of this FOIL Request, the definition of “DOE employees” includes, without limitation, officials, employees, representatives, contractors, and agents of the DOE.



- f. Gang signs
- (3) All documents, including but not limited to, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees that reflect the DOE's definition for the following terms:
- a. Threatening gang-related behavior
 - b. Dangerous gang-related behavior
 - c. Violent gang-related behavior
- (4) All documents, including but not limited to, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees from January 1, 2013, to the date of the DOE's response to this FOIL request, that reflect the DOE's criteria for identifying and classifying behavior as gang-related.
- (5) All documents reflecting the total number of times DOE employees consulted with the Gang Prevention and Intervention Unit to determine whether a student's behavior was gang-related for the following school calendar years:
- a. 2013-2014
 - b. 2014-2015
 - c. 2015-2016
 - d. 2016-2017
 - e. 2017-2018
- (6) All documents reflecting the de-identified demographic data—including but not limited to, race, gender, and age—of students for whom DOE employees consulted with the Gang Prevention and Intervention Unit to determine whether a student's behavior was gang-related for the following school calendar years:
- a. 2013-2014
 - b. 2014-2015
 - c. 2015-2016
 - d. 2016-2017
 - e. 2017-2018
- (7) All documents reflecting any action taken by DOE employees after consultation with the Gang Prevention and Intervention Unit for the following school calendar years:
- a. 2013-2014
 - b. 2014-2015



- c. 2015-2016
 - d. 2016-2017
 - e. 2017-2018
- (8) All documents reflecting the de-identified demographic data—including but not limited to, race, gender, and age—of students against whom DOE employees took any action after consultation with the Gang Prevention and Intervention Unit for the following school calendar years:
- a. 2013-2014
 - b. 2014-2015
 - c. 2015-2016
 - d. 2016-2017
 - e. 2017-2018
- (9) All documents reflecting de-identified demographic data—including but not limited to, race, gender, and age—of every student for whom DOE employees have identified as a gang or crew member that is included in any database, log, list, and electronic system from January 1, 2013, to the date of DOE’s response to this FOIL request.
- (10) All documents, including but not limited to, correspondence, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees from January 1, 2013, to the date of DOE’s response to this FOIL request, to share information with any governmental agency or other entity about a student’s alleged affiliation with any gang or crew.
- (11) All documents, including but not limited to, correspondence, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees from January 1, 2013, to the date of DOE’s response to this FOIL request, that indicate any governmental agency or other entity with whom DOE employees have shared information about a student’s alleged affiliation with any gang or crew.
- (12) All documents, including but not limited to, correspondence, training materials, policies, procedures, regulations, protocols, and guidelines utilized by DOE employees from January 1, 2013, to the date of DOE’s response to this FOIL request, that indicate any governmental agency or other entity with whom DOE employees have shared information that a student has been removed from class or



suspended from school because of a gang-related infraction under the DOE's Discipline Code, including, without limitation, the following provisions:

- a. Infraction A29 of the DOE's Discipline Code for Grade Kindergarten - Grade 5
- b. Infraction A53 of the DOE's Discipline Code for Grade Kindergarten - Grade 5
- c. Infraction B26 of the DOE's Discipline Code for Grades 6-12
- d. Infraction B55 of the DOE's Discipline Code for Grades 6-12

Format

Electronic records should be produced in their unlocked native format with all original metadata and original filenames. Paper documents should be scanned and produced as Adobe PDF files or TIF files. Emails produced should be grouped together with any attachments. When searching emails, please search all folders, including inbox, subject matter folders, sent items, archived items, and deleted items. Please produce all metadata fields for emails, including BCC.

Fee Waiver and Expedited Processing

The above requests are a matter of public interest. Accordingly, we request a fee waiver and expedited processing. The disclosure of the information sought is not for commercial purposes; instead, it will contribute to the public's understanding of government operations.²

LDF is non-profit organization dedicated to civil and human rights, with a proven track-record of compiling and disseminating information and reports to the public about government functions and activities. We have undertaken this work in the public interest and not for any private commercial interest. Similarly, the primary purpose of this Request is to obtain information to further the public's understanding of important DOE policies. Access to this information is crucial for enabling LDF and the communities we serve to evaluate such policies and their effects.

² Letter of Robert Freeman, Exec. Director, NYS Comm. on Open Gov't, Opinion No. 11745, <http://docs.dos.ny.gov/coog/ftext/f11745.htm> (last visited August 7, 2018) ("[T]here is nothing in the Freedom of Information Law that prohibits an agency from waiving the fee for copies.").



Conclusion

As shown above, the Freedom of Information Law (“FOIL”) requires that an agency respond within five business days of receipt of a FOIL request. If you are unable to comply with our records request within five business days, please provide us with a date at which time the Request will be granted or denied, as required under D-110, Section 6 of the New York City Department of Education’s Chancellor’s Regulations. Moreover, under subsection B.1 of this same Section, the Records Access Officer (“RAO”) should reach out to us if he or she identifies any ambiguity or lack of clarity in the way this Request is phrased.

If this request is denied in whole or in part, please identify the appropriate specific authority and justify all specific deletions by reference to exemptions in the statute. Please do not redact any non-responsive information from any records; we request the complete copies of any records with any responsive information. Additionally, please inform us of the reason(s) for such denial in writing, and provide the name, mailing address, and email address of the person or body to whom an appeal should be directed.

Moreover, in anticipation of any litigation, please preserve and be prepared to produce any and all records regarding the RAO’s efforts to identify and produce records responsive to this Request, and any and all records regarding this Request, including, but not limited to, electronic, other communications, and other records referring to this Request or containing or referring to information about or relating to this Request.

Please direct correspondence related to this request to the undersigned via telephone at (212) 965-2269, email at jcusick@naacpldf.org, or by mail at NAACP Legal Defense & Educational Fund, Inc., 40 Rector Street, 5th Floor, New York, NY 10006.

Thank you for considering the Request.

Sincerely,

/s/ John S. Cusick

John S. Cusick, Equal Justice Works Fellow
Marne Lenox, Assistant Counsel
NAACP Legal Defense & Educational Fund, Inc.