



CONNECTICUT STATE
COLLEGES & UNIVERSITIES

BOARD OF REGENTS FOR HIGHER EDUCATION

FREEDOM OF INFORMATION ACT HANDBOOK



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All inquiries concerning this handbook may be directed to the BOR’s FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu.



GUIDE TO PROCESSING FREEDOM OF INFORMATION ACT REQUESTS

1. An institution department receives a Freedom of Information Act (“FOIA”) request.
2. The institution department will perform an initial review of the request, discuss the request with the department or division staff who received the request, where appropriate, and seek out responsive records from the relevant divisions within the institution who maintain or are responsible for the sorts of records requested. If the institution department determines that redactions or exclusions may be necessary before disclosing the requested records (e.g., student and personnel records), the department should *immediately* send a copy of the FOIA request to the Board of Regents for Higher Education’s (“BOR”) Interim FOI Officer, Michael W. Kozlowski, and to the BOR’s FOI Legal Resource Officer, Gregory F. Daniels.
3. The institution must respond to the requester and at a minimum acknowledge the request within four (4) business days. It is the responsibility of the institution department to respond to the requester with an acknowledgement of the request.
4. Once the records responsive to the request have been compiled, the institution department reviews the request and the records to determine if any of the records requested must be protected as private under Federal and/or State law, must be disclosed under Federal and/or State law, or may be disclosed under Federal and/or State law. Where necessary and appropriate, the institution department will confer with the BOR’s FOI Legal Resource Officer, Gregory F. Daniels, for assistance interpreting and applying Federal or State law that impact the records requested.
5. Where appropriate, meetings may be held with the department or data custodian/data steward of the responsive records to better understand the records, their content and applicability of relevant privacy laws and FOIA exceptions that may apply.
6. Once the records relevant to the FOIA request have been compiled and reviewed, the institution department will contact the requester to indicate that the records are ready for the requester’s review. The institution department will also inform the requester what, if any, records will not be disclosed and the legal authority for not disclosing such records. If the requester is seeking copies of the records, the institution department will inform the requester what the charge for such copies will be. (If a requester simply wishes to come to the institution to review the records in person, the records may be viewed for free.)
7. Once payment is arranged or received (depending on the volume of the request), the institution department provides copies to the requester.
8. If the requester instead wishes to come to campus to view the responsive records, the institution department will arrange the visit and staff of the institution department will remain with the requester while viewing the records. If the requester wishes to have copies made at that time, the institution department will arrange for the copies to be made and, where applicable, collect payment for such copies.



INSTITUTION RECORDS AND THE FREEDOM OF INFORMATION ACT

The purpose of these guidelines is to provide guidance to institution employees when responding to Freedom of Information Act (“FOIA”) requests for public records.¹ This compilation, while not exhaustive, is unofficial and for the convenience of institution employees only. While every effort was made to attain complete accuracy herein, institution employees are advised to consult the Connecticut General Statutes for the official codification of the law.

TYPE OF RECORD	DISCLOSABLE?	STATUTORY AUTHORITY
“Preliminary drafts or notes”	No – If the public institution has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure.	Conn. Gen. Stat. § 1-210 (b) (1)
“Preliminary draft of a memorandum or letters...”	No – If (1) prepared by a member of the staff of a public institution, which is (2) subject to revision prior to submission to or discussion among the members of such institution.	Conn. Gen. Stat. § 1-210 (e) (1)
Records pertaining to strategy and negotiations with respect to pending claims or pending litigation	No – If to which the institution is a party until such litigation or claim has been finally adjudicated or otherwise settled.	Conn. Gen. Stat. § 1-210 (b) (4)
Records of Names and Addresses of Students under 18 attending public school or college	No – If not consented to by parent(s).	Conn. Gen. Stat. § 1-210 (b) (11)
Performance and evaluation records of faculty and professional staff members	No.	Conn. Gen. Stat. § 10a-154a
Education Record	No – If not consented to in writing by the student (with some exceptions). Institutions of higher education that receive federal funding are prohibited from disclosing information concerning a student, which would personally identify that student.	Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and under Conn. Gen. Stat. § 1-210 (b) (17)
Communications privileged by the attorney-client relationship	No – If qualified communication and if not waived.	Conn. Gen. Stat. § 1-210 (b) (10) and § 52-146r

¹ Note: Public institution employees are expected to comply with federal and state laws that limit disclosure of confidential, exempt, or protected information.

TYPE OF RECORD	DISCLOSABLE?	STATUTORY AUTHORITY
Records of a Personnel Search Committee	No – If disclosure of name or other identifying information, would reveal the identity of an executive level employment candidate without the consent of such candidate.	Conn. Gen. Stat. § 1-213 (b) (2)
System Database of Student Records	No.	Conn. Gen. Stat. § 10-10(a) (e)
Directory Information to all Recruiters	Yes.	Conn. Gen. Stat. § 10-221b
“Personnel or Medical Files and similar files” of BOR/Institution Staff and Faculty	No - If the disclosure would constitute an invasion of personal privacy under the Supreme Court’s Perkins Test. ² See BOR guide on personnel records.	Conn. Gen. Stat. § 1-210 (b) (2)
Personnel file of each institution employee who is a member of the Connecticut State University American Association of University Professors (CSU-AAUP) collective bargaining unit and party to the CSU-AAUP Collective Bargaining Agreement.	No. Article 4.14.2.10 of the CSU-AAUP Collective Bargaining Agreement, supersedes the following FOIA disclosure provisions: Conn. Gen. Stat. §§ 1-206 (b) (1), 1-210, 1-211, 1-212, 1-213, 1-214 (b) and (c).	Conn. Gen. Stat. §§ 5-270 through 5-280; and Conn. Gen. Stat. §§ 10a-87 through 10a-101.
Personnel file of each institution employee who is a member of the Connecticut State University and the State University Organization of Administrative Faculty, Local 2826 of Council 4, AFSCME, AFL-CIO (SUOAF-AFSCME) collective bargaining unit and party to the SUOAF-AFSCME Collective Bargaining Agreement.	No. Article 18.2 of the SUOAF-AFSCME Collective Bargaining Agreement, supersedes the following FOIA disclosure provisions: Conn. Gen. Stat. §§ 1-206 (b) (1), 1-210, 1-211, 1-212, 1-213, 1-214 (b) and (c).	Conn. Gen. Stat. §§ 5-270 through 5-280; and Conn. Gen. Stat. § 10a-87.

² The Supreme Court set forth the test for the Conn. Gen. Stat. § 1-210 (b) (2), exemption in Perkins v. Freedom of Information Commission, 228 Conn. 158, 175 (1993), which test has been the standard for disclosure of records pursuant to that exemption since 1993. Under the Perkins test, the claimant must first establish that the files in question are personnel, medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy. In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: first, that the information sought does not pertain to legitimate matters of public concern, and second, that disclosure of such information is highly offensive to a reasonable person.

TYPE OF RECORD	DISCLOSABLE?	STATUTORY AUTHORITY
Trade Secrets	No – If “information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, customer lists, film or television scripts or detailed production budgets that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy.	Conn. Gen. Stat. § 1-210 (b) (5) (A)
Commercial or financial information	No – If given in confidence, not required by statute.	Conn. Gen. Stat. § 1-210 (b) (5) (B)
Test questions, scoring keys and other examination data	No – If used to administer a licensing examination, examination for employment or academic examinations.	Conn. Gen. Stat. § 1-210 (b) (6)
Responses to any request for proposals or bid solicitation issued by a public institution or file made by a public institution in connection with the contract award process	No - Until such contract is executed or negotiations for the award of such contract have ended, whichever occurs earlier, provided the chief executive officer of such public agency certifies that the public interest in the disclosure of such responses, record or file is outweighed by the public interest in the confidentiality of such responses, record or file.	Conn. Gen. Stat. § 1-210 (b) (24)
Records of standards, procedures, processes, software and codes not otherwise available to the public	No – If the disclosure of which would compromise the security or integrity of an information technology system.	Conn. Gen. Stat. § 1-210 (b) (20)
Internal security audits of government-owned or leased institutions or facilities	No – If there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency.	Conn. Gen. Stat. § 1-210 (b) (19) (C) (v)



PROMPTLY RESPONDING TO FREEDOM OF INFORMATION ACT REQUESTS FOR RECORDS

The purpose of these guidelines is to provide guidance to institution employees when responding to Freedom of Information Act (“FOIA”) requests for public records.³ This compilation is unofficial and for the convenience of institution employees only. While every effort was made to attain complete accuracy herein, institution employees are advised to consult the Connecticut General Statutes for the official codification of the law.

“Promptly” Responding to Records Requests

How much time does a public institution have to locate, assemble, and provide a requester with either access to or copies of disclosable records?

- Conn. Gen. Stat. § 1-210 (a) requires that every person have the right to “inspect such records promptly during regular office or business hours, ... or (3) receive a copy of such records in accordance with section 1-212.”
- Conn. Gen. Stat. § 1-212 (a) requires that any person requesting records in writing to “promptly” receive “a plain, facsimile, electronic or certified copy of any public record.”

What does “promptly” mean with respect to responding to FOIA requests?

- In Advisory Opinion #51⁴, the FOI Commission states that “promptly,” as used in Conn. Gen. Stat. § 1-210 (a), “means quickly and without undue delay, taking into account all of the factors presented by a particular request.”
- The law requires that a public institution comply with a request “promptly,” allowing a requester to get a copy or inspect the records he/she requested within a reasonable amount of time under the circumstances. This does not mean immediately since an institution may have to handle other duties and requests made before the requester’s request.

What factors should a public institution consider when determining if they are responding promptly to a request for records?

- Public institutions should consider the following factors when determining whether their response is prompt within the meaning of the FOIA:
 - the volume of records requested;
 - the amount of personnel time necessary to comply with the request;

³ Note: Public institution employees are expected to comply with federal and state laws that limit disclosure of confidential, exempt, or protected information.

⁴ See, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982). <http://www.ct.gov/foi/cwp/view.asp?a=4162&Q=549074>

- the time by which the requestor needs the information contained in the records;
 - the time constraints under which the agency must complete its other work;
 - the importance of the records to the requester, if ascertainable; and
 - the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.
- All of the factors cannot be outlined in this guide since “promptly” is a fact-based question specific to each request for records.
 - Note: In Advisory Opinion #51, the FOI Commission states that “[a]lthough each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority.”

All inquiries concerning these guidelines may be directed to the BOR’s FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu.



PERSONNEL, MEDICAL, AND SIMILAR FILES AND THE FREEDOM OF INFORMATION ACT

The purpose of these guidelines is to provide guidance to institution employees when responding to Freedom of Information Act (“FOIA”) requests for public records.⁵ This compilation is unofficial and for the convenience of institution employees only. While every effort was made to attain complete accuracy herein, institution employees are advised to consult the Connecticut General Statutes for the official codification of the law.

“Personnel or Medical Files and Similar Files”

Records maintained by Board of Regents for Higher Education (“BOR”) institutions in employees’ personnel, medical and/or similar files are generally considered public records under Connecticut law. However, some contents contained in such files, or otherwise maintained by an institution, are not public.

- **Conn. Gen. Stat. § 1-210 (b) (2)** permits a public institution to withhold all information about individuals in “[p]ersonnel or medical files and similar files” when the disclosure of such information “would constitute an invasion of personal privacy.”
- This exemption is intended to protect the privacy interest of individuals by allowing an institution to withhold personal data kept in government files.

Collective Bargaining Agreements and Personnel Records

- Contract terms of collective bargaining agreements may supersede specific disclosure provisions of the FOIA and provide certain limitations to accessing personnel files and medical records of institution employees who are members of particular collective bargaining units, as indicated in the following tables.⁶

CSU-AAUP Collective Bargaining Agreement Term: August 25, 2007 – August 25, 2016	
Statutory Procedure:	The State House of Representatives and the State Senate approved the Collective Bargaining Agreement between the Connecticut State University American Association of University Professors (CSU-AAUP) and Board of Trustees for Connecticut State University System in accordance with the “supersedence” provisions of Conn. Gen. Stat. §§ 5-270 through 5-280; and Conn. Gen. Stat. §§ 10a-87 through 10a-101.
Contract Reference:	Article 4.14.2.10

⁵ Note: Public institution employees are expected to comply with federal and state laws that limit disclosure of confidential, exempt, or protected information.

⁶ Pursuant to Conn. Gen. Stat. § 5-278, a term of a collective bargaining agreement may supersede a statute, provided that the appropriate statutory procedure has been followed. Absent such procedure, the conflicting term is a nullity. Connecticut State College American Ass’n of University Professors v. Connecticut State Bd. of Labor Relations, 197 Conn. 91, 98-99 (1985).

Provision:	The entire contents of personnel files shall be considered private and may not be opened to any outside scrutiny except when ordered by a court of law. When a file is requested by an outside party for any reason, the affected member shall be promptly notified and provided with a copy of the request and reason therefore.
Provision Supersedes:	Article 4.14.2.10 of the CSU-AAUP Collective Bargaining Agreement, supersedes the following FOIA disclosure provisions: Conn. Gen. Stat. §§ 1-206 (b) (1), 1-210, 1-211, 1-212, 1-213, 1-214 (b) and (c).

SUOAF-AFSCME Collective Bargaining Agreement Extended Term: July 1, 2007 – June 30, 2016 Original Term: July 1, 2007 – June 30, 2011	
Statutory Procedure:	The State House of Representatives and the State Senate approved the Collective Bargaining Agreement between the Connecticut State University and the State University Organization of Administrative Faculty, Local 2826 of Council 4, AFSCME, AFL-CIO (SUOAF-AFSCME) and Board of Trustees for Connecticut State University System in accordance with the “supersedence” provisions of Conn. Gen. Stat. §§ 5-270 through 5-280; and Conn. Gen. Stat. § 10a-87.
Contract Reference:	Article 18.2
Provision:	<p>Except as otherwise provided, materials in the personnel files shall be confidential. Access to the personnel file by individuals other than the member concerned shall be conducted in the presence of someone in authority in the file office in accordance with applicable State and Federal statutes. Except for the member concerned, the President/ Chancellor or his designee(s), and SUOAF-AFSCME representatives, who are authorized to process a grievance, no one shall have access to the official personnel file without the member's written approval. When individuals other than the President/Chancellor or Chief Human Resources Officer (or equivalent) and their immediate staff members peruse the file, notations shall be made on the face of the folder as to name, date, and reason for the perusal.</p> <p>The entire contents of personnel files shall be considered private and may not be opened to any outside scrutiny except when ordered by a court of law.</p>
Provision Supersedes:	Article 18.2 of the SUOAF-AFSCME Collective Bargaining Agreement, supersedes the following FOIA disclosure provisions: Conn. Gen. Stat. §§ 1-206 (b) (1), 1-210, 1-211, 1-212, 1-213, 1-214 (b) and (c).

What constitutes “[p]ersonnel or medical files and similar files” within the meaning of the FOIA?

- Examples of the type of records that constitute a:
 - ***Personnel file*** includes, but is not limited to, job-related employee data maintained by the institution’s human resources department and the employee’s current department;
 - ***Medical File*** includes, but is not limited to, medical data concerning the employee, such as medical treatment, leave taken under the Family and Medical Leave Act, doctor’s note; and
 - ***Similar File*** includes, but is not limited to, a file that is similar in nature to a personnel file. A determination of whether a file is similar in nature to a personnel file for purposes of possible exemption from public disclosure requires a functional review of the documents at issue, under which a file containing information that would, under ordinary

circumstances, be pertinent to traditional personnel decisions will be considered “similar” to a personnel file. **Almeida v. Freedom of Information Commission**, 39 Conn. App. 154 (1995).

How does a public institution determine whether disclosure of information contained in an employee’s personnel, medical or similar files would constitute an invasion of personal privacy?

<i>Perkins Invasion of Personal Privacy Test</i> ⁷
Under the <u>Perkins</u> test, the institution must (1) first establish that the files in question are personnel, medical or similar files; (2) second, the institution must show that disclosure of the records would constitute an invasion of personal privacy. ⁸
In determining whether disclosure would constitute an invasion of personal privacy, the institution <u>must</u> establish: (2) (a) first, that the information sought does not pertain to legitimate matters of public concern, and (2) (b) second, that disclosure of such information is highly offensive to a reasonable person.

Is an institution permitted to withhold an entire record that contains some information that qualifies as exempt “[p]ersonnel or medical files and similar files?”

- No. When a record contains some information that qualifies as exempt, the entire record is not necessarily exempt from disclosure. An institution may have to determine if any segregable portions of the requested record must be provided to a requester after redacting portions that are exempt from disclosure.

How does a public institution process request for institution records that contain information constituting “[p]ersonnel or medical files and similar files?”

- The following steps provide guidance for responding to a request for information contained in a public employee’s personnel, medical, and/or similar files:
 - 1. Receipt of Freedom of Information Act Request**
 - a. A public institution receives a request to inspect or copy records contained in an employee’s personnel, medical, and/or similar files.
 - 2. Institution Identifies, Compiles and Reviews Responsive Records**
 - a. Identify, compile and review responsive records contained in an employee’s personnel, medical, and/or similar files.
 - 3. Institution’s Invasion of Privacy Determination**
 - a. Determine whether the institution reasonably believes that the disclosure of its employee’s “personnel or medical files and similar file” would legally constitute an invasion of privacy. Apply the Perkins test as follows:

⁷ The Supreme Court set forth the personnel, medical or similar files test for the Conn. Gen. Stat. §1-210 (b) (2), exemption in Perkins v. Freedom of Information Commission, 228 Conn. 158, 175 (1993), which test has been the standard for disclosure of records pursuant to that exemption since 1993.

⁸ The burden of proving that the requested personnel, medical or similar files are exempt “requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons [the *personnel, medical or similar files*] exemption applies to the materials requested.” New Haven v. Freedom of Information Commission, 205 Conn. 767, 776 (1988).

- i. If institution *reasonably* believes that the disclosure of its employee's "personnel or medical files and similar file" would legally constitute an invasion of privacy, then ***proceed to Step 4, Notification to Employee***, below.
- ii. If institution does not reasonably believe that the disclosure of its employee's "personnel or medical files and similar file" would legally constitute an invasion of privacy, then the institution is not required to withhold from disclosure the contents of the personnel or medical files and similar files.

4. Notification to Employee

- a. The institution immediately notifies institution employee in writing and collective bargaining representative, if applicable. Note: Notification in writing is not required where impractical due to the large number of institution employees whose personnel, medical, and/or similar files are the subject of the request.
- b. The notification to the institution employee should inform such employee that:
 - i. A FOI request was made for specific contents of his/her personnel, medical and/or similar files.
 - ii. Unless the institution receives a written objection from the employee or their collective bargaining representative, if any, **within seven (7) business days** from the receipt by the employee or such collective bargaining representative of the notice or, if there is no evidence of receipt of written notice, not later than nine business days from the date the notice is actually mailed, sent, posted or otherwise given, the institution shall disclose the requested records.
 - iii. The objection *must* consist of a statement to be signed by the employee or the employee's collective bargaining representative, under the penalties of false statement, that to the best of his/her knowledge, information and belief there is good ground to support the objection and that the objection is not interposed for delay. Note: If an employee's collective bargaining representative files a written objection under this subsection, the employee may subsequently approve the disclosure of the records requested by submitting a written notice to the public institution.

5. Whether Employee Responds to Notification

- a. **Objection Filed by Employee** - If employee timely files an objection, the institution must not disclose the requested records unless ordered to do so by the FOI Commission.
- b. **Partial Objection Filed by Employee** – If employee timely files an objection for some portions of the requested records, but is silent on whether to disclose other portions, the institution must accordingly withhold such portions of the requested records in which the employee objects to disclosing unless ordered to do so by the FOI Commission. However, if the employee does not object to the disclosure or permits disclosure of other portions of the requested records, the institution must disclose such records.
- c. **No Objection Filed by Employee** - If the employee does not object to the disclosure of the requested records, the institution must disclose such records.

See Conn. Gen. Stat. § 1-214.

All inquiries concerning these guidelines may be directed to the BOR's FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu.



FEES FOR COPIES OF PUBLIC RECORDS UNDER THE FREEDOM OF INFORMATION ACT

The purpose of these guidelines is to provide guidance to institution employees when responding to Freedom of Information Act (“FOIA”) requests for public records.⁹ This compilation is unofficial and for the convenience of institution employees only. While every effort was made to attain complete accuracy herein, institution employees are advised to consult the Connecticut General Statutes for the official codification of the law.

Fees for Copies of Records

Board of Regents for Higher Education (“BOR”) institutions shall assess fees in responding to FOIA requests for copies of records, consistent with the fee provisions of the FOIA and guidelines outlined herein. **Note: The FOIA does not permit a public institution to charge for request to review or inspect records.**

Fees for Public Records in Paper Form

What can a public institution charge for copies of public records in paper form under the FOIA?

- Conn. Gen. Stat. § 1-212 (a) (2) states public institutions may charge as follows:

Type of Public Agency	Fee
Public Institutions of Higher Education	Twenty-five cents per page ¹⁰

- **Board Resolution #06-36 authorizes BOR institutions to charge for copies to the extent permitted under Conn. Gen. Stat. § 1-212 (a).**

What can a public institution charge a requester using a “hand-held scanner” to copy public records in paper form under the FOIA?

- Conn. Gen. Stat. § 1-212 (g) states public institutions may charge a requester as follows with respect to copying public documents using a “hand-held scanner”:

Type of Public Agency	Fee
Public Institutions of Higher Education	Twenty-five dollars (Each time the requester copies records at an institution using a “hand-held scanner”) ¹¹

⁹ Note: Public institution employees are expected to comply with federal and state laws that limit disclosure of confidential, exempt, or protected information.

¹⁰ Note: The FOI Commission has interpreted the word “page” in Conn. Gen. Stat. § 1-212 (a) as referring to the writing on one side of a double-sided sheet. Therefore, a public agency can charge for each side of a double-sided copy of a public record. See the FOI Commission’s Final Decision in Docket #FIC 2004-445, Misty Williams and Dan Massey v. Trista Clyne, Administrative Assistant, Board of Selectmen, Town of Branford; et al.

Fees for Computer-stored Public Records

What can a public institution charge for copies of computer-stored public records under the FOIA?

- The FOIA only permits agencies to charge for time spent performing certain actions to fulfill FOIA requests for electronic records. The cost in performing such actions cannot exceed the cost to the public agency in responding to the FOIA requests.¹² **Note: If an individual requests electronic records to be transmitted electronically, and the institution maintains the records electronically, there may be no basis for charging a fee.**
- An institution may include the following in determining the cost for copies of computer-stored public records¹³:
 - **Cost Incurred by an Institution Attributable to:**
 - **Hiring Outside Professional Copying Services.** “An amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such copying services, if such service is necessary to provide the copying as requested; and”
 - **Computer Storage and Retrieval Services.** “The computer time charges incurred by the agency in providing the requested computer-stored public record where another agency or contractor provides the agency with computer storage and retrieval services.”
 - **Cost of Providing Storage Devices or Media.** “The actual cost of the storage devices or media provided to the person making the request in complying with such request;”
 - **Programming and Formatting Functions.** The FOIA states agencies may charge “[a]n amount equal to the hourly salary attributed to all agency employees engaged in providing the requested computer-stored public record, including their time performing the formatting or programming functions necessary to provide the copy as requested, but not including search or retrieval ...” Conn. Gen. Stat. § 1-212 (b) (1).

*What is the difference between formatting, programming, and search or retrieval functions necessary to respond to FOIA request for computer-stored public records?*¹⁴

¹¹ Conn. Gen. Stat. § 1-212 (g) permits a public agency to establish “a fee structure not to exceed twenty dollars for an individual to pay each time the individual copies records at the agency with a hand-held scanner.” “[H]and-held scanner means a battery operated electronic scanning device the use of which (1) leaves no mark or impression on the public record, and (2) does not unreasonably interfere with the operation of the public agency.” See also, Germain v. Town of Manchester, 135 Conn. App. 202 (2012)(dismissing an appeal of the FOI Commission’s Final Decision in Docket #FIC 2009-145, Thomas Germain v. Town Clerk, Town of Manchester; and Town of Manchester, holding that Conn. Gen. Stat. § 1-212 (g) limits the permissible type of “hand-held” scanner a requester can use)

¹² See Conn. Gen. Stat. § 1-212 (a) (2) (B).

¹³ Conn. Gen. Stat. §§ 1-212 (b) (2) through (4).

¹⁴ This portion of the guide is intended to assist institution employees with: (1) determining what constitutes programming, formatting, or search and retrieval under the FOIA; (2) estimating cost after determining that a task constitutes chargeable formatting and programming within the meaning of Conn. Gen. Stat. § 1-212 (b) (1); and recognizing when a task is not chargeable (e.g., search and retrieval). Because of the ever-changing and evolving nature of information technology and computer-stored public records, no set of guidelines will address every FOIA request scenario for computer-stored public records.

Formatting

"Formatting" refers to actions taken (automated or manual) to convert a data file from one format to another. It does not refer to word processing tasks to change data within a data file, including redaction tasks. Option I is recommended for requests involving large number of manual data conversions and/or special programming projects. Option II is recommended for requests involving small numbers of manual conversions, and/or special programming projects that do not require significant amounts of time.

Option I	Option II
<p><i>(For requests involving large number of manual data file conversions and/or special programming)</i></p> <p>Charge for time spent manually converting files, programming time and run time if allowed.</p>	<p><i>For requests involving small numbers of manual conversions, and/or special programming)</i></p> <p>Charge for just programming required to perform the conversion.</p>
<p>Institutions may charge for time spent on actions <u>directly</u> associated with the conversion of a data file from one format to another, including:</p> <p>1) Time spent converting a file using an existing program or application.</p> <p>Example:</p> <ul style="list-style-type: none"> An employee must convert a Word Document (.doc) to a PDF file (.pdf) using the "create PDF" command in the Adobe Acrobat program. An employee must convert a Word Document to a Text file, or another type of file, using the "Save As" command in Word. <p>Time spent includes making the actual command, the "wait time" while the file is converted, and the testing and verification to ensure the conversion was successful.</p> <p>2) Time spent creating a program to convert files</p> <p>Example:</p> <ul style="list-style-type: none"> A programmer must write a program or modify an existing program in order to format data. This would be considered programming and is thus chargeable. 	<p>Institutions should charge only for time spent creating a program to convert files from one format to another.</p> <p>Example:</p> <ul style="list-style-type: none"> A programmer must write a program or modify an existing program in order to format data. This would be considered programming and is thus chargeable. <p>If manual conversions are required, institutions may choose not to charge unless significant amount of time must be spent in the conversions.</p>

Programming

Institutions may charge the requestor for time spent performing the programming tasks required to obtain data in the format required to comply with an FOIA request. Option I is recommended for more complex requests and projects. Option II is recommended for simpler projects that do not require significant amounts of time.

Option I	Option II
<p align="center"><i>(More Complex Requests and Projects)</i></p> <p align="center">Charge for All Phases of Programming</p>	<p align="center"><i>(Less Complex Projects)</i></p> <p align="center">Charge Just for Time Spent Coding</p>
<p>Programming includes related actions performed <u>before, during and after</u> the creation of computer code (<i>computer instructions used to execute an action</i>), or modification/adaptation of existing code.</p> <p>In general, the three phases are:</p> <ol style="list-style-type: none"> 1) Analysis and Requirements Definition. In this phase, the programmer obtains an understanding of what is required, analyzes actions and paths required to meet requirements. 2) Writing the Code. In this phase, the programmer actually writes the computer code. 3) Testing and Debugging. In this phase, testing, verification and remediation tasks are preformed to ensure the code performs the intended task. <p>In this option, time spent in all phases may be charged. This option is recommended for more complex requests and project where time spent in phases 1 and 3 is substantial.</p> <p>Institutions must take care to ensure time charged is exclusively dedicated to tasks outlined above and is documented as such.</p>	<p>Programming includes related actions performed <u>before, during and after</u> the creation of computer code (<i>computer instructions used to execute an action</i>), or modification/adaptation of existing code.</p> <p>In general, the three phases are:</p> <ol style="list-style-type: none"> 1) Analysis and Requirements Definition. In this phase, the programmer obtains an understanding of what is required, analyzes actions and paths required to meet requirements. 2) Writing the Code. In this phase, the programmer actually writes the computer code. 3) Testing and Debugging. In this phase, testing, verification and remediation tasks are preformed to ensure the code performs the intended task. <p>It is recommended that institutions charge only for phase 2 in less complex projects where time spent in phases 1 and 3 is minimal.</p>

Search and Retrieval

All Requests
<p>Search is <u>the placement of a query</u> for data from a document, spreadsheet, application or database or any other repository of data. The search command triggers the retrieval.</p> <p>Retrieval is <u>the execution of the search</u>, including the identification, gathering and assembly of the data based on the search request/query.</p> <p>Institutions <u>may not charge</u> for a search or retrieval.</p> <p>The institution may only charge for programming required to create a query itself, if such programming is required.</p> <p>For example, more complex queries may require the creation</p>

of a search algorithm, written in a special query language, in order to perform the search. This would constitute programming and would be a chargeable task.

Payment of FOIA Request Fees

When can an institution request payment of FOIA fees?

- Fees are generally assessed by an institution at the conclusion of processing an FOIA request. However, an institution may require prepayment as indicated, below:

Requiring Pre-Payment of Copying Fees

An institution can require prepayment of any copying fee for public records if such fee is estimated to be ten dollars or more. Conn. Gen. Stat. § 1-212 (c).

Who should accept payment of FOIA fees from a requester?

Payments to BOR Central/System Office

To request an invoice for FOIA fees be sent to a requester, BOR staff shall submit their FOIA invoice request to csu.ap.bor@ct.edu, including in the email their BOR department, a brief description of the information provided to the requester (this is to determine if it is CCC in nature or CSU or both), the number of pages provided to the requester, as well as the name and address of where the invoice is to be sent.

Remittance for FOIA fees shall be made to:

Board of Regents for Higher Education
Connecticut State Colleges & Universities
Attn: Accounts Receivable Office
39 Woodland Street
Hartford, CT 06105

Checks shall be made payable to: Board of Regents for Higher Education

Payments to Other BOR Institutions

Each institution shall provide requesters with the appropriate institution department and/or employee to which remittance for FOIA fees shall be made. Institutions shall determine and inform requesters of all acceptable means of payment at its discretion. It is recommended that payments made to institutions for FOIA fees include an identifying number assigned by the institution to the requester's FOIA request, if applicable.

Can an institution waive FOIA fees?

- The FOIA requires an institution to waive FOIA fees under certain circumstances, such as when the requester is an indigent individual. An individual requesting that a BOR institution waive FOIA fees shall be deemed indigent when he/she completes and submits to the institution a copy of the BOR's Affidavit of Indigency form proving that such individual has had **no more than \$500.00 in assets at any time during the year prior to said FOIA request.** Institution employees are encouraged to consult with the BOR's FOI Legal Resource Officer, Gregory F. Daniels, for guidance on determining when to grant a request to waive FOIA fees.

Requests for Waiver of Copying Fees

Conn. Gen. Stat. § 1-212 (d) states public institutions shall waive any fee for public records when, (1) “[t]he person requesting the records is an indigent individual....(3) [i]n its judgment, compliance with the applicant’s request benefits the general welfare.”¹⁵

An institution must exercise the discretion vested in it to come to a reasonable conclusion on whether compliance would “benefit the general welfare” and ultimately, why the applicant’s request is one in which a fee waiver should or should not be granted.¹⁶

All inquiries concerning these guidelines may be directed to the BOR’s FOI Legal Resource Officer, Gregory F. Daniels, at 860-723-0018 or DanielsG@ct.edu.

¹⁵ Conn. Gen. Stat. § 1-212 (d) provides that a public agency shall waive the copying fee when (1) “[t]he person requesting the records is an indigent individual; (2) [t]he records located are determined by the public agency to be exempt from disclosure under [Conn. Gen. Stat. § 1-210 (b)]; (3) [i]n its judgment, compliance with the applicant’s request benefits the general welfare; or (4) [t]he person requesting the record is an elected official of a political subdivision of the state and the official (A) obtains the record from an agency of the political subdivision in which the official serves, and (B) certifies that the record pertains to the official’s duties; or (5) [t]he person requesting the records is a member of the Division of Public Defender Services or an attorney appointed by the court as a special assistant public defender under section 51-296 and such member or attorney certifies that the record pertains to the member’s or attorney’s duties.”

¹⁶ See, e.g., Office of Corp. Counsel v. FOI Commission, 2010 Conn. Super. LEXIS 2643 (Conn. Super. Ct. Oct. 12, 2010).

A QUICK GUIDE TO FREEDOM OF INFORMATION

Board of Regents for Higher Education's Freedom of Information Process

1. An institution department receives a Freedom of Information Act ("FOIA") request. *Note: The institution must typically acknowledge receipt of the request within four (4) business days.*
2. The institution department will perform an initial review of the request, discuss the request with the department or division staff who received the request, where appropriate, and locates the requested records from the relevant divisions within the institution. Where appropriate, the institution department will confer with the Board of Regent for Higher Education's FOI Legal Resource Officer regarding any interpretations of federal or state law (e.g., disclosure exceptions).
3. The institution department contacts the requester to indicate the records are ready for review and informs the requester of any records that will not be disclosed and the legal authority for not disclosing such records.
4. When the requester seeks copies of the records, the institution department will determine the charge and send copies upon arranging for or receiving payment (depending on the volume of the request). Alternatively, the requester may contact the institution department to schedule a time to come to the institution to view the records. The institution department, or its designee(s), will remain with the requester while the records are reviewed.

FOI Contacts

Michael W. Kozlowski
Director of Public Affairs and Marketing
Interim FOI Officer
MKozlowski@commnet.edu or (860) 723-0261

Gregory F. Daniels
Assistant Counsel
FOI Legal Resource Officer
DanielsG@ct.edu or (860) 723-0018

Rev. 3/2015



39 Woodland Street
Room 140
Hartford, CT 06105

860.723.0261
FAX 860.723.
foi@ct.edu



A Quick Guide To Freedom Of Information

*An employee resource
for understanding public
records requests made
to public institutions*



Frequently Asked Questions

1. Q: Who can file a Freedom of Information Act (FOIA) request?

A: Any person can file a FOIA request.

2. Q: Is there a form that a person requesting access to public records must use to make requests?

A: No. There are no required forms. However, a public institution may ask a person requesting copies of public records to complete a form prepared by the institution or to make the request in writing.

3. Q: What fees can a public institution charge to provide copies of public records?

A: Public institutions may charge a maximum of twenty-five cents per side of a double-sided sheet. Other fees may be charged for certified copies of public records or for transcriptions, printouts or records on electronic media.

4. Q: How many days does the public institution have to acknowledge receipt of a FOIA request?

A: A public institution must acknowledge receipt of a FOIA request within four (4) business days *after* the public institution receives the request. Day 1 of the 4-day timeline is the first business day *after* the request is received by the public institution. The date that the request was received by the public institution does *not* count as "Day 1." Note: A "business day" or "working day" is a regular day of the week (Monday through Friday) when public institutions and most businesses are open. Saturdays, Sundays and state holidays are not business days and cannot be counted in the 4 business day time period.

5. Q: Can a public institution ask a requester for clarification concerning a request?

A: Yes. Public institutions may request clarification concerning which public record or public records are being requested.

6. Q: How quickly must an institution provide access to, or copies of, public records?

A: A public institution is required to provide "prompt" access to public records. Promptness is a standard determined by consideration of a number of factors such as: how busy the institution is at the time of the request, how time-consuming it will be to comply with the request and the urgency of need for the information contained in the records.

7. Q: What if the public institution uses a different name for a document than the requester when making his/her request? Can the institution deny the requester for that reason?

A: No. The public institution cannot deny the request just because it refers to a record differently than the institution. A requester does not need to describe the record specifically and accurately by the same name the public institution uses. As long as the public institution understands what the requester is requesting, they must determine whether a responsive record exists and whether such record can be release under federal and state law, even if the institution does not call it by the same name the requester uses.

8. Q: When may a public institution refuse to release requested records?

A: The FOIA as well as federal and state law provide that certain categories of documents are not public records. Included among these are records that have been designated confidential by law (e.g., The Family Educational Rights and Privacy Act), documents subject to a recognized legal privilege such as the attorney-client privilege or the work-product privilege, records describing se-

curity plans or procedures, juvenile records, performance and evaluation records of faculty and professional staff and information contained in the "personnel or medical files and similar files" of public employees.

9. Q: What must the public institution do if a public record holds some information that is open to the public and some information that is confidential or falls within an exemption or exception to disclosure?

A: Some public records contain a mixture of information that is public and information that is confidential or otherwise not subject to public inspection under the FOIA. If the requested record contains any confidential, exempt or excepted information, the public institution must decide if the confidential, exempt or excepted information can be adequately redacted or blacked out so that public access can be provided or if public access to the document should be denied.

10. Q: What must the public institution include in a denial?

A: The denial must be in writing, and reference a specific legal reason under the FOIA to justify the non-disclosure of the requested information.

11. Q: Is a public institution required to answer questions under the FOIA?

A: No. The FOIA does not require a public institution to answer questions, render opinions, or provide subjective evaluations. Requesters must ask for existing records.

HELPFUL TOOLS FOR PROCESSING FREEDOM OF INFORMATION ACT REQUESTS

CERTIFIED COPY

****DELETE THIS LINE AND PRINT ON INSTITUTION LETTERHEAD****

CERTIFICATION TO BE USED WITH COPIES OF RECORDS

I, the undersigned, hereby certify that the attached copy of **[ENTER A DESCRIPTION OF THE REQUESTED RECORD(S)]** records constitute true copies of records maintained and kept on file by **[CHOOSE AN INSTITUTION]** as of **[CLICK HERE TO ENTER A DATE]**.

Signature (Authorized Official)

Date

(Typed/Printed Name and Title of Authorized Official)

FREEDOM OF INFORMATION ACT REQUEST RESPONSE LOG

Freedom of Information Act Request Response Log

Summary of Decision Making

Rec. No	FOIA Request No.	Brief description and date of record	No. of Pages	Decision: Grant/Grant-in-Part/Deny	Basis of Denial: Legal Authority	Reason for Decision	Record Redacted/Identify Redactions
1.							
2.							
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							

FREEDOM OF INFORMATION ACT REQUEST COST CALCULATION WORKSHEET

Freedom of Information Act Request Cost Calculation Worksheet

This worksheet is designed as a tool for institutions to determine estimated and actual costs for programming and formatting tasks involved in processing a Freedom of Information Act requests. In determining whether or not a task constitutes programming or formatting, please reference the Board of Regents for Higher Education’s guidelines entitled, “Fees for Copies of Public Records Under the Freedom of Information Act.”

Describe Chargeable Tasks (e.g., Programming and/or Formatting)	Performed By	Hourly Salary (Do Not Include Fringe Costs)	Estimated Time to Complete Task	Estimated Cost (Hourly Salary x Est. Time)	Actual Time Spent on Task	Actual Charges (Hourly Salary x Actual Time)



**AFFIDAVIT OF INDIGENCY: FEE WAIVER FOR FREEDOM OF INFORMATION ACT
REQUEST**

Are you an unemancipated minor? Yes No . If yes, please have your parent or legal guardian complete this Affidavit.

Are you married? Yes No . If yes, please provide information for both you and your spouse, unless you are legally separated.

Full Legal Name: _____

Spouse's Full Legal Name (if applicable): _____

Date of your request for public records under the Freedom of Information Act ("FOIA") for which you seek a fee waiver? _____

Please list below all income earned and assets owned by you at any time during the twelve months prior to the date of your FOIA request.

I. Income (*Net income after taxes; include all sources*)

Public Assistance Received: No Yes

(If yes, specify type): _____

Net Income \$

II. Assets

	Estimated Value	Debt Owed	Equity
Real Estate	\$	\$	Real Estate \$
Motor Vehicles	\$	\$	Motor Vehicles \$
Other Personal Property	\$	\$	Other \$
Cash on Hand			\$
Savings Accounts (Total of all accounts)			Savings \$
Checking Accounts (Total of all accounts)			Checking \$
Individual Retirement Accounts			IRA Value \$
Certificates of Deposits			COD Value \$
Stocks: <i>Name</i>			Stock Value

SAMPLE FREEDOM OF INFORMATION ACT LETTERS

Acknowledgement Sample #1

January 1, 2015

John Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request Regarding [SHORT DESCRIPTION]

Dear [Mr. Doe],

The [BOARD OF REGENTS FOR HIGHER EDUCATION] (“BOR”) is in receipt of your email dated December 24, 2014, requesting [DESCRIBE THE REQUESTED RECORD]. Your request is currently being reviewed and will be promptly processed by [BOR] staff.

[Paragraph Option 1]

Once the requested records relevant to your request have been compiled and reviewed, you will be contacted to arrange a time for you to inspect responsive records that are not otherwise excepted or exempt from disclosure pursuant to the Connecticut Freedom of Information Act and/or other relevant law.

[Paragraph Option 2]

Once the requested records relevant to your request have been compiled and reviewed, you will be contacted to discuss the total charge for copies and the most appropriate manner of transferring responsive records that are not otherwise excepted or exempt from disclosure pursuant to the Connecticut FOI Act and/or other relevant law.

Sincerely,

[BOR FOI OFFICER’S NAME]

[BOR TITLE]

Acknowledgement Sample #2

January 1, 2015

Jane Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request regarding [SHORT DESCRIPTION]

Dear [Ms. Doe],

I serve as the Freedom of Information (“FOI”) Officer for [ABC College] (hereinafter “ABC”). A copy of your request for [DESCRIBE THE REQUESTED RECORDS – e.g., personnel, medical, and/or similar] maintained by [ABC] (hereinafter the “requested records”) has been forwarded to me by [ABC’s STUDENT AFFAIRS DEPARTMENT].

[Paragraph Option 1]

Your request has been provided to the appropriate [BOR] personnel to commence compilation and review of responsive records. Once the requested records relevant to your request have been compiled and reviewed, you will be contacted to arrange a time for you to inspect responsive records that are not otherwise excepted or exempt from disclosure pursuant to the Connecticut FOI Act and/or other relevant law.

[Paragraph Option 2]

Your request has been provided to the appropriate [BOR] personnel to commence compilation and review of responsive records. Once the requested records relevant to your request have been compiled and reviewed, you will be contacted to discuss the total charge for copies and the most appropriate manner of transferring responsive records that are not otherwise excepted or exempt from disclosure pursuant to the Connecticut FOI Act and/or other relevant law.

Sincerely,

[FOI OFFICER’S NAME]

[TITLE]

Notice to Employee Regarding Request for his/her Personnel Record(s)

January 1, 2015

John Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request Regarding [EMPLOYEE PERSONNEL, MEDICAL OR SIMILAR FILE]

Dear [Mr. Doe],

Pursuant to Conn. Gen. Stat. § 1-214 (b), [THE BOARD OF REGENTS FOR HIGHER EDUCATION] (hereinafter “BOR”) wishes to inform you that a Freedom of Information (hereinafter “FOI”) Act request has been made for records related to [DESCRIBE THE REQUESTED RECORDS] (hereinafter the “requested records”). (See Attached FOI Act Request).

After a search and review of responsive documents, [the BOR] has determined that the requested records arguably contain exempt “personnel or medical files and similar files” within the meaning of Conn. Gen. Stat. § 1-210 (b) (2), the disclosure of which would “legally constitute an invasion of personal privacy.” Accordingly, the [the BOR] is providing you with the opportunity to object to disclosure of the requested records by submitting a written opposition within seven (7) business days of the date of your receipt of this letter.

Your written opposition to disclosure should specify in detail all grounds upon which disclosure is opposed including that disclosure would legally constitute an invasion of personal privacy. You may return a completed copy of the attached form (provided for your convenience) entitled, “OBJECTION TO DISCLOSURE OF RECORDS” or draft a letter indicating any objections to disclosure of the requested records.

You should feel confident that [the BOR] will strive to protect any other personnel, medical and/or similar data that may be exempt from public disclosure. If you have any questions, you may contact [NAME] by phone at [NUMBER], by fax at [NUMBER], by email at [ADDRESS], or by mail at [ADDRESS]. Thank you in advance for your prompt attention to this matter.

Sincerely,

[FOI OFFICER’S NAME]
[TITLE]

Notice to Employee Regarding Disclosure of his/her Personnel Record(s)

January 1, 2015

John Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request regarding [SHORT DESCRIPTION]

Dear [Mr. Doe],

Recently, [the BOARD OF REGENTS FOR HIGHER EDUCATION] (hereinafter “BOR”) received a Freedom of Information Act (“FOIA”) request for a copy of [DESCRIBE THE REQUESTED RECORDS – e.g., personnel, medical, and/or similar] records (hereinafter the “requested records”). The [BOR] will be providing such information to the requestor, because it is our view that there is no exemption or exclusion in the FOI law or regulations permitting the [BOR] to withhold the requested record.

The [BOR] will provide this information to the requestor early next week. It is for that reason that the [BOR] wanted to provide you with advance notice of the possibility.

The [BOR] values the privacy of our employees, current and former, very highly, and did extensive research into whether we are required under FOI to produce the requested record. As indicated above, we can find no basis for withholding the requested record.

You should feel confident that the [BOR] will strive to protect any other personnel, medical and/or similar data that may be exempt from public disclosure. If you have any questions, you may contact [NAME] by phone at [NUMBER], by fax at [NUMBER], by email at [ADDRESS], or by mail at [ADDRESS].

Sincerely,

[FOI OFFICER’S NAME]
[TITLE]

Denial Letter Regarding Student Directory Information

January 1, 2015

Jane Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request Regarding Student Directory Information

Dear [Ms. Doe],

I serve as the coordinator of records requests received by [ABC UNIVERSITY] (hereinafter “University”). Your request for directory information of current students, in particular their full, names, home addresses and email address (hereinafter the “requested records”), has been forwarded to my office by the [UNIVERSITY’S STUDENT AFFAIRS DEPARTMENT].

Please be advised that it is the [UNIVERSITY’S] established policy that it does not release this sort of directory information regarding students. This position is supported by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and the regulations promulgated thereunder, in particular 34 C.F.R. § 99.37(d), as well as under the Connecticut Freedom of Information Act at Conn. Gen. Stat. §§ 1-210 (b) (11) and (17).

Very Truly Yours

Sincerely,

[FOI OFFICER’S NAME]
[TITLE]

Denial Letter Regarding Student Information

January 1, 2015

John Doe
ABC Company
1000 Main Street
Hartford, CT 06000

VIA [METHOD SENT]

Re: Freedom of Information Act Request Regarding Student Information

Dear [Mr. Doe],

[XYZ College] has located records that may be responsive to the request you inquired about in your January 1, 2015 voicemail message. However, such student records are exempt from public disclosure under federal law (Family Educational Rights and Privacy Act (FERPA), 20 USC § 1232g; 34 C.F.R. Part 99) and state statute (Freedom of Information Act, Conn. Gen. Stat. § 1-210 (b) (17) - "Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g;").

Sincerely,

[INSTITUTION FOI OFFICER'S NAME]

[TITLE]

cc: Michael Kozlowski, BOR Director of Public Affairs
Gregory F. Daniels, BOR Assistant Counsel