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9 Oversight Committee

ELECTRONICALLY FILED
Superior Court of California,
County of Orange
07/28/2017 at 09:00:46 AM
Clerk of the Superior Court
By Giovanni Galon, Deputy Clerk

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE – CENTRAL JUSTICE CENTER

INLAND OVERSIGHT COMMITTEE,

Plaintiff and Petitioner,

vs.

WESTMINSTER SCHOOL DISTRICT; and DOES
1 through 100,

Defendants and Respondents.

CASE NO. 30-2017-00934489-CU-WM-CJC

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND PETITION FOR WRIT OF
MANDATE UNDER THE CALIFORNIA
PUBLIC RECORDS ACT AND OTHER
LAWS**

Judge Martha K. Gooding

Plaintiff and Petitioner INLAND OVERSIGHT COMMITTEE ("IOC") alleges as follows:

Introductory Statement

1. IOC brings this lawsuit under the California Public Records Act ("CPRA"), as well as the California Constitution, the common law, and other applicable legal authorities. IOC made lawful CPRA requests to Defendants/Respondents, but they have illegally failed to respond to the requests and produce responsive public records.

Parties

2. IOC is a non-profit organization formed and operating under the laws of the State of California. One of its primary roles as a government "watchdog" is ensuring that public agencies comply with all applicable laws aimed at promoting transparency and accountability in government.

1 11. WSD's Internet home page website states that the number for fax transmissions to WSD
2 is 714-899-2781. A true and correct copy of the bottom portion of WSD's home page is attached to this
3 pleading as Exhibit "B."

4 12. WSD has not responded to the IOC Request.

5 13. WSD has violated the controlling legal authorities in at least two ways. By way of
6 example and not limitation (including alternative theories of liability):

7 A. IOC is informed and believes and on that basis alleges that at least one public
8 record responsive to the IOC Request exists and was not turned over by WSD.

9 B. WSD has not responded to the IOC Request despite the passage of more than 10
10 days and all other extension periods to which WSD would have been entitled by law.

11 14. IOC and other members of the public have been harmed as a result of
12 Defendants'/Respondents' failure to produce the public records responsive to the IOC Response. By
13 way of example and not limitation, the legal rights of IOC and its members to access information
14 concerning the conduct of the people's business is being violated and continues to be violated.

15 **SECOND CAUSE OF ACTION:**
16 **Declaratory Relief under Code of Civil Procedure Section 1060 et seq.**
(Against All Defendants/Respondents)

17 17. The preceding allegations in this pleading are fully incorporated into this paragraph.

18 18. IOC is informed and believes and on that basis alleges that an actual controversy exists
19 between IOC, on the one hand, and Defendants/Respondents, on the other hand, concerning their
20 respective rights and duties under the CPRA, the California Constitution, the common law, and other
21 applicable legal authorities. As alleged in this pleading, IOC contends that records responsive to the
22 IOC Request exist and that Defendants/Respondents are required by law to produce them and to respond
23 to the IOC Request; whereas Defendants/Respondents dispute IOC's contention.

24 19. IOC desires a judicial determination and declaration as to whether
25 Defendants/Respondents properly responded to the IOC Request, whether disclosable public records
26 were unlawfully withheld by Defendants/Respondents, and whether they were required by law to
27 produce such records in a timely manner.
28

1 **Prayer**

2 FOR ALL THESE REASONS, IOC respectfully prays for the following relief against all
3 Defendants/Respondents (and any and all other parties who may oppose IOC in this lawsuit) jointly and
4 severally:

5 A. *On the First Cause of Action:*

6 1. A judgment determining or declaring that Defendants/Respondents have not
7 promptly and fully complied with the CPRA, the California Constitution, the common law, and/or other
8 applicable laws with regard to the IOC Request;

9 2. A writ of mandate ordering Defendants/Respondents to promptly and fully
10 comply with the CPRA, the California Constitution, the common law, and all other applicable laws with
11 regard to the IOC Request; and

12 3. Preliminary and permanent injunctive relief directing Defendants/Respondents
13 to fully respond to the IOC Request and to permit IOC to inspect and obtain copies of all responsive
14 public records.

15 B. *On the Second Cause of Action:*

16 1. An order determining and declaring that the failure of Defendants/Respondents
17 to disclose all public records responsive to the IOC Request and to permit IOC to inspect and obtain
18 copies of the responsive public records does not comply with the CPRA, the California Constitution,
19 the common law, and/or other applicable laws; and

20 2. Preliminary and permanent injunctive relief directing Defendants/Respondents
21 to respond to and disclose all public records responsive to the IOC Request and to permit IOC to inspect
22 and obtain copies of the responsive public records.

23 C. *On All Causes of Action:*

24 1. An order providing for the Court's continuing jurisdiction over this lawsuit in
25 order to ensure that Defendants/Respondents fully comply with the CPRA, the California Constitution,
26 the common law, and/or other applicable laws;

27 2. All attorney fees and other legal expenses incurred by IOC in connection with
28 this lawsuit; and

3. Any further relief that this Court may deem appropriate.


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Date: July 27, 2017.

Respectfully submitted,

BRIGGS LAW CORPORATION

By:


Cory J. Briggs

Attorneys for Plaintiff and Petitioner Inland Oversight
Committee

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND
OTHER LAWS**

Exhibit "A"

BRIGGS LAW CORPORATION

*San Diego Office:
4891 Pacific Highway, Suite 104
San Diego, CA 92110*

*Telephone: 619-497-0021
Facsimile: 909-949-7121*

Please respond to: Inland Empire Office

*Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786*

*Telephone: 909-949-7115
Facsimile: 909-949-7121*

BLC File(s): 1593.47

28 June 2017

Public Information Officer
Westminster School District
14121 Cedarwood Avenue
Westminster, CA 92683

Via fax only to 714-899-2781

Re: Request to Inspect and Obtain Copies of Public Records, Public Information, and Other Matters

Dear Public Information Officer:

On behalf of the Inland Oversight Committee and pursuant to the California Constitution (Article I, Section 3), the California Public Records Act (GOV'T CODE § 6250 *et seq.*), the common law, and your agency's own local rules and regulations, I am writing to request an opportunity to first inspect and then obtain copies of the "public records" (as that term, including public information and other matters, is defined under the foregoing authorities) listed on *Attachment 1: Categories of Requested Public Records* to this request, regardless of whether the responsive public records are maintained on public or private devices and/or in public or private accounts.

I ask that you make a determination on this request within 10 days of your receiving it, or even sooner if you can do so without having to review the responsive records. If you believe that any of these records is exempt from disclosure, I urge you to note in your reply whether the exemption is discretionary and, if so, whether you are required to exercise your discretion to withhold the record in this particular case. If you determine that any portion of the responsive records is exempt from disclosure and that you intend to withhold that portion, I ask that you redact that portion for the time being and make the other portion available as requested. In any event, please respond with a signed notification citing the legal authorities on which you rely if you determine that any portion of the responsive records, if not all of them, is exempt and will not be disclosed.

If public records responsive to this request are available in one or more non-paper formats (including but not limited to electronic, magnetic, or digital formats), make sure that your response to this request includes production of all responsive records in non-paper formats even if the records are also available in paper format. If there are no records responsive to a particular category listed on *Attachment 1*, please confirm in writing that such records do not exist; and if responsive records used to exist but have been lost, stolen, or destroyed, please (i) identify the date of loss, theft, or destruction and (ii) provide a copy of all available evidence of the loss, theft, or destruction.

Be Good to the Earth. Reduce, Reuse, Recycle



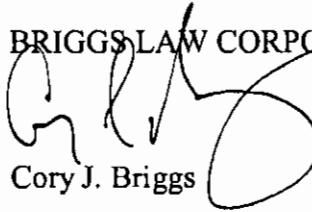
All responsive records must be produced for inspection before my client will pay for copies, unless I agree otherwise in writing after receiving your estimate of copying costs. Furthermore, my client reserves the right to make its own reproduction of the responsive records, at its own expense.

One final, important request: Please remind all agents of your agency that Government Code Section 6200 provides, *inter alia* and with my emphasis, that every public officer having custody of any record "filed or deposited in any public office, or *placed in his or her hands for any purpose*, is punishable by imprisonment [for up to four years] . . . if, *as to the whole or any part of the record* . . . the officer willfully does or permits any other person to do any of the following: (a) Steal, remove, or secrete. (b) Destroy, mutilate, or deface. (c) Alter or falsify." This punishment applies even when the officer maintains custody of such records outside your agency's office or on the officer's private property.

Thank you for your time and attention to this matter. If I can provide any clarification that will help you to expedite this request, please do not hesitate to contact me in writing. Because the law requires you to assist members of the public in making a focused and effective request that reasonably describes identifiable records, I will assume that you fully understand what public records are being sought unless I receive written correspondence from you to the contrary.

Sincerely,

BRIGGS LAW CORPORATION



Cory J. Briggs



Attachment 1: Categories of Requested Public Records

Page 1 of 1 (following request letter)

1a. Each and every e-mail communication between Dr. Marian Kim-Phelps and one or more members of the Westminster School District Board of Trustees between January 15, 2017, and April 15, 2017, that pertains in any way to the District's employment of Dr. Kim-Phelps.

1b. Each and every communication in **WRITING** (other than e-mail) between Dr. Marian Kim-Phelps and one or more members of the Westminster School District Board of Trustees between January 15, 2017, and April 15, 2017, that pertains in any way to the District's employment of Dr. Kim-Phelps.

2a. Each and every e-mail communication between Dr. Marian Kim-Phelps and one or more members of the Westminster School District Board of Trustees between January 15, 2017, and April 15, 2017, that pertains in any way to the termination of the District's employment of Dr. Kim-Phelps (regardless of who initiated the termination).

2b. Each and every communication in **WRITING** (other than e-mail) between Dr. Marian Kim-Phelps and one or more members of the Westminster School District Board of Trustees between January 15, 2017, and April 15, 2017, that pertains in any way to the termination of the District's employment of Dr. Kim-Phelps (regardless of who initiated the termination).

3a. Each and every e-mail communication from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that pertains in any way to the termination of the District's employment of Dr. Kim-Phelps (regardless of who initiated the termination).

3b. Each and every communication in **WRITING** (other than e-mail) from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that pertains in any way to the termination of the District's employment of Dr. Kim-Phelps (regardless of who initiated the termination).

4a. Each and every e-mail communication from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that pertains in any way to that certain Agreement between the Board of Trustees of the Westminster School District and Marian Kim-Phelps, Ed.D., entered into on or about October 13, 2016.

4b. Each and every communication in **WRITING** (other than e-mail) from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that pertains in any way to that certain Agreement between the Board of Trustees of the Westminster School District and Marian Kim-Phelps, Ed.D., entered into on or about October 13, 2016.

5a. Each and every e-mail communication from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that mentions or otherwise pertains in any way to the Poway Unified School District.

5b. Each and every communication in **WRITING** (other than e-mail) from Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that mentions or otherwise pertains in any way to the Poway Unified School District.

6a. Each and every e-mail communication to Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that mentions or otherwise pertains in any way to the Poway Unified School District.



Attachment 1: Categories of Requested Public Records

Page 1 of 2 (following request letter)

6b. Each and every communication in **WRITING** (other than e-mail) to Dr. Marian Kim-Phelps between January 15, 2017, and April 15, 2017, that mentions or otherwise pertains in any way to the Poway Unified School District.

7a. Each and every e-mail communication between any employee, official, attorney, or other agent of Poway Unified School District and any employee, official, attorney, or other agent of Westminster School District between February 1, 2017, and July 5, 2017, that mentions or otherwise pertains in any way to the civil proceeding commonly known as *San Diegans for Open Government v. Poway Unified School District et al.*, San Diego County Superior Court case no. 37-2017-00015136-CU-MC-CTL, including but not limited to this deposition subpoena.

7b. Each and every communication in **WRITING** (other than e-mail) between any employee, official, attorney, or other agent of Poway Unified School District and any employee, official, attorney, or other agent of Westminster School District between February 1, 2017, and July 5, 2017, that mentions or otherwise pertains in any way to the civil proceeding commonly known as *San Diegans for Open Government v. Poway Unified School District et al.*, San Diego County Superior Court case no. 37-2017-00015136-CU-MC-CTL, including but not limited to this deposition subpoena.

As used above, "**WRITING**" has the same meaning that it has under California Evidence Code Section 250.



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99 East "C" Street, Suite 111
Upland, CA 91786

Telephone: 909-949-7115
Facsimile: 909-949-7121

FACSIMILE COVER SHEET

Recipient: Public Information Officer, Westminster School District

Recipient's fax number: 714-899-2781

Date: 2017-06-28 BLC File: 1593.47

Total Pages (including cover sheet): 5

Sender: Cory J. Briggs

Sender's fax number: ___ 619-515-6410 909-949-7121

Message: Please see the attached request for public records.

Original Document to Follow? ___ Yes No

CONFIDENTIALITY

The document accompanying this facsimile transmission contains information that may be either confidential, legally privileged, or both. The information is intended only for the use of the recipient(s) named on this cover sheet. If not done by or at the direction of the recipient(s), disclosure, copying, distribution, or reliance on any of the contents of this transmission is strictly prohibited. If you have received this facsimile transmission in error, please notify us immediately by telephone so that we can arrange for its return at no cost to you.

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*San Diego Office:
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San Diego, CA 92110*

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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND
OTHER LAWS**


Exhibit "B"

District and community and she has the right combination of experience, knowledge and vision to provide our students with the 21st century skills needed to be college and career ready," announced Penny Loomer, Board President.

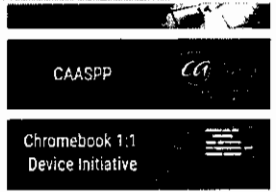
WSD Receives Several Honors at OCDE Language Learner Celebration

 The Orange County Department of Education presented awards for accelerating bilingualism and biliteracy to Dr. Renae Bryant, executive director of the Office of Language Acquisition and to teachers Mimosha Ha and Lisa Krallman. WSD became the first district in California to offer a Vietnamese Dual Language Immersion program in 2015 and last September we opened the district's first Spanish Dual Language Immersion program. Click headline to read more.

1st Annual Archery Tournament

 About 30 students from Stacey & Warner competed in the District's first-ever Archery Tournament last weekend. With support from the Board of Trustees and grants from the Easton Foundation, the after-school Archery program has been running at Stacey for four years and Warner began a program this year. Click on headline for OC Register story.

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDATE etc. and know its contents.

CHECK APPLICABLE PARAGRAPH

- I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.
I am an Officer a partner a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

- I am one of the attorneys for Inland Oversight Committee a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on July 27, 20 17, at San Diego, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Cory J. Briggs
Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF

I am employed in the county of, State of California. I am over the age of 18 and not a party to the within action; my business address is,

On, 20, I served the foregoing document described as

- on in this action
by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

- BY MAIL
I deposited such envelope in the mail at, California.
The envelope was mailed with postage thereon fully prepaid.
As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- Executed on, 20, at, California.
(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.
Executed on, 20, at, California.
(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I
(Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

*(By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)
**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)