



THE EQUAL PROTECTION PROJECT
A Project of the Legal Insurrection Foundation
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BARRINGTON, RI 02806
www.EqualProtect.org

July 30, 2024

(Via Email)

Dr. Luvelle Brown
Superintendent
Ithaca City School District
400 Lake Street
Ithaca, NY 14850

Dear Dr. Brown:

This constitutes the administrative appeal of the Equal Protection Project (EPP) of the Legal Insurrection Foundation regarding EPP's FOIL Request dated May 28, 2024 (attached)(the "FOIL Request") and the response of the Ithaca City School District (ICSD) dated July 3, 2024 (attached).

Request No. 6 requested:

6. Communications with the Office for Civil Rights of the U.S. Department of Education, regarding the complaint (https://defendinged.org/wp-content/uploads/2023/03/Ithaca-City-School-District-OCR-Complaint_Redacted2.pdf) of Parents Defending Education (Case 02-23-1241), including but not limited to such communications with OCR as set forth in whole or in part the representations reflected in OCR's letter dated September 7, 2023 (https://defendinged.org/wp-content/uploads/2023/09/02-23-1241-Ithaca-City-SD_Redacted.pdf):

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"The District informed OCR that the affinity groups listed on the announcement and scheduled for February 8, 2023, did not take place. The District further informed OCR that all of the District's programming is open to all participants regardless of race and there are no affinity groups or other programs that are exclusionary based on race."

In response, ICSD has not produced any records responsive to Request No. 6, and ICSD does not list Request No. 6 as a request as to which it is in possession of records. ("Following a diligent search, we have determined that the District is in possession of records responsive to your requests 1, 2, 3, 4, 5, 7, 8, and 9). Such records undoubtedly exist, likely at ICSD's legal counsel. If the records are in the possession of ICSD's legal counsel who interacted with OCR, they are still ICSD records that must be produced pursuant to the FOIL Request. Since no exemptions are claimed as to these records, please produce them immediately.

All Other Requests: Excessive Redactions

As to all other Requests (1-5, 7-9) ICSD has produced heavily redacted records without any explanation on a record-by-record basis as to which exemption is claimed or on what basis.

As indicated in the FOIL Request, EPP did not seek personally identifiable information as to ICSD students, but the redactions appear to go far beyond protecting such information. Instead, ICSD asserts omnibus boilerplate, non-specific, exemption claims:

"Under FOIL, while there is a presumption of access to governmental records, certain exceptions exist that allow the entity to withhold records in whole, or in part. The Family Educational Rights and Privacy Act ("FERPA") protects student information and places certain restrictions on school districts with regard to disclosure without parental consent. Pursuant to FERPA and Education Law Section 2-d, any and all student information, including any identifying information have been redacted from these records. Other records were redacted in whole or in part, pursuant to the intra-agency communications exception to FOIL. Finally, other records were redacted in whole or in part, as such disclosure would constitute an unwarranted invasion of personal privacy "

Because ICSD chose not to specify which exemptions it is claiming as to which redacted records, we are unable to address ICSD purported claim of exemption on a record-by-records basis. Since ICSD made omnibus claims of exemption, we appeal from and contest such redactions and demand that ICSD produce the records without redaction except for personally identifiable student information.

Additionally, ICSD chose not to number stamp its records production. Accordingly, attached hereto is a representative sample of records produced by ICSD, which we have stamped "ICSD - Equal Protection Project FOIL - Contested Redactions - 00001-133, as to which we contest the

claim of exemption and redactions. To assist you in locating the records so that you can produce them unredacted, here are the file names contained in the numbered set.

Name	Page Range	Size	Modified	Bookmark for File
[Test] ICSD Staff Update July 2022_Redacted...	All Pages	9.45 KB	7/30/2024 9:52:46 AM	[Test] ICSD Staff Update July 2022_Re...
An Idea for a School Event_Redacted.pdf	All Pages	123.05 KB	7/30/2024 9:55:47 AM	An Idea for a School Event_Redacted
Email I sent to SOCU Event organizers..._Re...	All Pages	148.44 KB	7/3/2024 5:49:45 PM	Email I sent to SOCU Event organizers...
Friday 5_31_Redacted.pdf	All Pages	151.09 KB	7/3/2024 5:08:04 PM	Friday 5_31_Redacted
From Sean_Redacted.pdf	All Pages	82.51 KB	7/3/2024 5:50:05 PM	From Sean_Redacted
Fwd- An Invitation to Our Students Who Ide...	All Pages	579.95 KB	7/30/2024 10:11:17 AM	Fwd- An Invitation to Our Students W...
Fwd- Inclusion statement for SOCU_Redact...	All Pages	114.11 KB	7/3/2024 5:08:59 PM	Fwd- Inclusion statement for SOCU_R...
Fwd- SOCU (3)_Redacted.pdf	All Pages	256.68 KB	7/3/2024 4:05:06 PM	Fwd- SOCU (3)_Redacted
Fwd- SOCU (4)_Redacted.pdf	All Pages	322.43 KB	7/3/2024 4:05:34 PM	Fwd- SOCU (4)_Redacted
Fwd- SOCU (5)_Redacted.pdf	All Pages	332.64 KB	7/3/2024 4:05:53 PM	Fwd- SOCU (5)_Redacted
Fwd- SOCU Date_Redacted.pdf	All Pages	327.74 KB	7/3/2024 4:06:12 PM	Fwd- SOCU Date_Redacted
Fwd- SOCU Student ADD_Redacted.pdf	All Pages	295.87 KB	7/3/2024 4:06:36 PM	Fwd- SOCU Student ADD_Redacted
Fwd- SOCU Summit_Redacted.pdf	All Pages	265.80 KB	7/3/2024 4:07:23 PM	Fwd- SOCU Summit_Redacted
Fwd- US Field Test_Redacted.pdf	All Pages	270.98 KB	7/3/2024 4:07:54 PM	Fwd- US Field Test_Redacted
FYI- Last two days of classes_Redacted.pdf	All Pages	80.28 KB	7/3/2024 4:08:55 PM	FYI- Last two days of classes_Redacted
How do you feel about these responses _Re...	All Pages	116.71 KB	7/3/2024 5:51:35 PM	How do you feel about these respons...
IHS Friday Staff Update 4-28-23_Redacted.p...	All Pages	53.50 KB	7/3/2024 5:26:42 PM	IHS Friday Staff Update 4-28-23_Reda...
In Support of the Students of Color United S...	All Pages	1.57 MB	7/30/2024 10:09:32 AM	In Support of the Students of Color Un...
IRISE Compensation_Redacted.pdf	All Pages	154.65 KB	7/3/2024 5:11:19 PM	IRISE Compensation_Redacted
IRISE Poster (1)_Redacted.pdf	All Pages	1.13 MB	7/3/2024 3:56:17 PM	IRISE Poster (1)_Redacted
IRise Students of Color Summit_Redacted.pdf	All Pages	179.26 KB	7/3/2024 5:11:39 PM	IRise Students of Color Summit_Redac...
Re- Advising IRISE_Redacted.pdf	All Pages	179.17 KB	7/3/2024 4:13:52 PM	Re- Advising IRISE_Redacted
Re- Follow up_Redacted (1).pdf	All Pages	246.76 KB	7/30/2024 10:23:13 AM	Re- Follow up_Redacted (1)
Re- Follow up_Redacted (2).pdf	All Pages	237.43 KB	7/3/2024 5:46:06 PM	Re- Follow up_Redacted (2)
Re- Follow up_Redacted.pdf	All Pages	246.76 KB	7/3/2024 4:14:22 PM	Re- Follow up_Redacted
Re- Leadership next steps regarding the SOC...	All Pages	174.03 KB	7/3/2024 5:13:56 PM	Re- Leadership next steps regarding th...
Re- Students of Color Summit 2022 _Redact...	All Pages	105.12 KB	7/30/2024 10:06:42 AM	Re- Students of Color Summit 2022 _R...
Re- Summit_Redacted.pdf	All Pages	323.65 KB	7/3/2024 4:16:11 PM	Re- Summit_Redacted
Re- Updated SOCU DATE 6_7 (Rain Date 6_...	All Pages	374.99 KB	7/3/2024 5:15:17 PM	Re- Updated SOCU DATE 6_7 (Rain D...
Request for comment - Equal Protections Pr...	All Pages	259.10 KB	7/30/2024 10:06:29 AM	Request for comment - Equal Protecti...
sandwich boxes_Redacted.pdf	All Pages	113.13 KB	7/30/2024 10:22:00 AM	sandwich boxes_Redacted
SOCS_Redacted.pdf	All Pages	173.10 KB	7/3/2024 5:15:45 PM	SOCS_Redacted
SOCU Inclusion drafts_Redacted.pdf	All Pages	1.72 KB	7/3/2024 5:37:03 PM	SOCU Inclusion drafts_Redacted
Student of Color Summit and IRISE update _...	All Pages	1.17 MB	7/3/2024 5:17:24 PM	Student of Color Summit and IRISE up...
Student of Color Summit_Redacted.pdf	All Pages	220.26 KB	7/3/2024 3:55:53 PM	Student of Color Summit_Redacted
Students of Color Summit_Redacted.pdf	All Pages	1.13 MB	7/3/2024 4:57:39 PM	Students of Color Summit_Redacted
Students of Color Summit 2022_Redacted.pdf	All Pages	232.48 KB	7/30/2024 10:05:42 AM	Students of Color Summit 2022_Redac...
Students of Color Summit_Redacted (2).pdf	All Pages	109.33 KB	7/3/2024 4:59:28 PM	Students of Color Summit_Redacted (2)
Students of Color Summit_Redacted (3).pdf	All Pages	138.36 KB	7/3/2024 5:18:14 PM	Students of Color Summit_Redacted (3)
Students of Color Summit_Redacted.pdf	All Pages	820.97 KB	7/3/2024 3:47:30 PM	Students of Color Summit_Redacted
Summit and New Roots_Redacted.pdf	All Pages	169.46 KB	7/30/2024 10:05:33 AM	Summit and New Roots_Redacted
Taking a Step Back_Redacted.pdf	All Pages	194.52 KB	7/3/2024 5:22:05 PM	Taking a Step Back_Redacted
TextMessagesRequest4_Redacted.pdf	All Pages	1.54 MB	7/3/2024 4:00:33 PM	TextMessagesRequest4_Redacted

There is nothing on the face of these documents, as redacted, that indicates any exemptions apply or as to which redaction is justified (other than student personally identifiable information, which we do not contest).

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Since this matter may end up in court, please provide specific justifications for each redaction. ICSD simply restating the statutory basis for refusing disclosure without factual evidence is not sufficient. And it's not likely that the records contain the types of information comprising an unwarranted invasion of privacy described in section 89(2)(b) of FOIL, or any similar information of an intimate or personal nature that is not already subject to redaction under FERPA.

Conclusion

We hereby demand that ICSD (1) immediately produce the records called for by Request No. 6, as to which no exemptions are claimed, and (2) produce all the records, including but not limited to those marked "EPP Appeal ICSD Redacted Records 00001-00000", without redaction except as to student personally identifiable information.

Very truly yours,

/s/ William A. Jacobson

William A. Jacobson
President, Legal Insurrection Foundation
Equal Protection Project