

From: Magelky-Seiler, Jennifer (jennms@uidaho.edu)
To: ["Joshua Babcock"](#)
Cc: [General Counsel Archive \(gc-archive@uidaho.edu\)](#)
Subject: RE: Public Records Request Moscow Pullman Daily
Date: Monday, August 31, 2015 5:00:00 PM

Dear Mr. Babcock,

I am writing in response to your public records request below.

Before addressing your specific request, I would like to provide you with some information about the Idaho Public Records Law ("IPRL") that may assist you with this and future requests.

Under the IPRL, requesters have a right to access and receive copies of public records of the University of Idaho. The IPRL only requires that non-exempt records that are specifically requested be made available for examination or copying during regular business hours. The IPRL does not require that copies be sent to a requestor and the University will generally do so in its sole discretion only when it minimizes cost and expense to the University. The public has the right to examine and copy any existing non-exempt public record of the state; however, the university is not statutorily obligated to create a document or record in response to a public records request.

The University is authorized to, and does, charge for the actual labor and copying costs associated with locating and copying documents when (i) the request is for more than one-hundred (100) pages of paper records, (ii) the request includes records from which nonpublic information must be deleted, or (iii) the actual labor associated with responding to the request exceeds two (2) person hours. However, the University may not charge for the first one hundred (100) paper copies and the first two (2) person hours of labor. Should a request qualify under one of the criteria above, the requester is provided with an estimate of time and costs and is required to make advanced payment.

The University is granting your request in part and denying your request in part. Your request is detailed below with the basis for each denial.

- Your request for "the video footage that captured students appearing to steal clothing items at the UI VandalStore on Sunday, August 16. I would like to request all video recorded in the store from 1:45 p.m. to 3 p.m. on that day."

Your request is denied, based on I.C. 74-104(1). Any such records, to the extent that they may exist, would be an education record of the student and would be protected by FERPA against disclosure without the student's prior written consent.

- Your request for "any university emails regarding the incident from Assistant AD for Media Relations Becky Paul, Athletic Director Rob Spear, VandalStore Director John Bales, VandalStore Manager Scott McDonald, and UI Head Football Coach Paul Petrino."

I have reviewed your request and am hereby notifying you that, under the terms of the Idaho Public

Records Act (“IPRA”), the University will grant you access to and the right to copies of the requested public records to the extent those records exist within the University and except to the extent the information contained in those records is exempt from disclosure under the IPRA.

Before actually reviewing the responsive email communications, we are unable to identify whether the records contain any exempt information. However, below are some common exemptions that apply, where applicable, to University records: (i) education records of students are subject to FERPA and are exempt under Idaho Code § 74-104(1), (ii) most information from personnel records are exempt under Idaho Code § 74-106(1), and (iii) communications with counsel may be subject to the attorney-client privilege. Obviously, this is not an exhaustive list of exemptions and once the responsive records are reviewed, we will be able to identify any exemptions that apply to such records. Any records containing exempt information would be redacted.

Additionally, the IPRA allows the University to require advance payment of estimated costs, which we do as a matter of course. This prevents a loss of University resources when a requester changes his or her mind as to his or her public records request.

Your request, as written, (i) is quite broad, (ii) may contain more than one-hundred (100) pages of paper records, (iii) will take more than two (2) person hours of labor, and (iv) will require an advance payment of estimated costs. Before we can provide you with an estimate for providing you access to the requested records, we must first determine how many responsive records exist within your stated time range by indexing Assistant AD for Media Relations Becky Paul, Athletic Director Rob Spear, VandalStore Director John Bales, VandalStore Manager Scott McDonald, and UI Head Football Coach Paul Petrino’s email accounts and conducting the search based on the terms you provided.

Our IT personnel estimate that that it will take 20 hours at an hourly rate of \$60.00 to index and search the email accounts.

\$60 per hour x 20 hours = \$1200.00 [subtotal]
\$60.00 x 2 hours = \$120.00 [First 2 hours of labor are free]
\$1200.00 - \$120.00 = **\$1080.00**
[Subtotal – 2 free hours = Total]

Once the email accounts are indexed and the search conducted, we will be in a better position to provide you with an estimate of the time and costs associated with reviewing all responsive records and redacting any exempt information.

The University will not expend the time and resources necessary to index and search the email accounts (in order to provide you with an estimate to acquire any responsive records) at the risk of taxpayer funds; consequently, you will be required to deliver advance payment in certified funds in the amount of **\$1080.00** prior to the University commencing this process. If the estimated funds are insufficient to complete the indexing of the email accounts, you will be informed of our estimate for funds necessary to complete the process and we will await advance payment of that sum prior to proceeding further. If the actual time and cost is less than the estimate, the surplus funds will be

refunded to you.

Funds should be made payable to The University of Idaho in care of the Office of General Counsel and sent to this office at 875 Perimeter Drive, MS 3158, Moscow, Idaho 83843-3158.

Once the funds are received, we will index and search the email account using the search terms you provided; we will then be able to provide you with an estimate of the time and costs associated with reviewing all responsive records and redacting any exempt information.

An attorney for the University has reviewed your request. To the extent of any denial of access to public records; please note that the sole remedy for a person aggrieved by the denial of a request is to institute proceedings in the district court of the county where the records or some part thereof are located, to compel the public agency to make the information available for public inspection. The petition contesting the decision must be filed within one hundred eighty (180) calendar days from the date of mailing of the notice of denial or partial denial by the public agency.

Please feel free to contact my office, preferably by email, if you have questions.

Thank you,

Jennifer L. Magelky-Seiler, MPA '09
Administrative Assistant Sr.
Office of General Counsel

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

This message is confidential and privileged. Unless you are the intended recipient, you may not use, copy, or disclose the information in this message. If you have received this message in error, please reply to counsel@uidaho.edu and fully delete this message.

-----Original Message-----

From: Joshua Babcock [mailto:jbabcock@dnews.com]
Sent: Wednesday, August 26, 2015 9:26 AM
To: counsel <counsel@uidaho.edu>
Subject: Public Records Request Moscow Pullman Daily

My name is Josh Babcock and I'm a reporter with a Moscow-Pullman Daily News. I would like to file a public records request for the video footage that captured students appearing to steal clothing items at the UI VandalStore on Sunday, August 16. I would like to request all video recorded in the