

From: Magelky-Seiler, Jennifer (jennms@uidaho.edu)
To: [REDACTED]
Cc: [General Counsel Archive \(gc-archive@uidaho.edu\)](mailto:gc-archive@uidaho.edu)
Subject: RE: Exception to the Idaho Public Records Act
Date: Friday, April 24, 2015 10:37:00 AM

Dear Mr. Kover,

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

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

Before actually reviewing the responsive records, 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 I.C. 9-340A(1), (ii) most information from personnel records are exempt under I.C. 9-340C(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. Based on your request, as written, we do not anticipate having to redact any responsive records.

To assist you in this request and with future requests you may wish to make, I want to clarify for you the University's obligations and policies with respect to public records requests.

The Idaho Public Records Law only requires that existing non-exempt records that are specifically requested be made available for examination or copying, during regular business hours. The law does not require that copies be sent to a requester. In accordance with the Public Records Law, the University charges 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. Please note that the University may not charge for the first two (2) person hours of labor and the first one-hundred (100) paper copies. Additionally, the law 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.

Our office personnel provided me with the following estimate associated with identifying and gathering up the requested records:

Description	Time
Review of public records request files in Records Management and request of those records.	02.00 hours
Retrieval of files from Records Management	00.75 Hours
Review of all Paper files .33 hr per file approximately 92 files	30.36 Hours
Review of all electronic files .083 hr per file approximately 230 files	19.09 Hours
Total Hours:	52.20 hrs
52.20 hours x \$19.24/hr (Hourly wage of Administrative Assistant)	\$1,004.33

Additional Costs:	
Cost of City North American to move boxes from Records Management to office for review and returning files to Records Management once review is complete. Minimum 1 hr. charge per time, \$90 per hour x 2 hrs.	\$ 180.00
Subtotal:	\$1,184.33
Minus 2 hours of labor free (\$19.24 x 2)	-\$ 38.48
Final Total Cost	\$1,145.85

Once the responsive records are identified and gathered, we will be in a better position to provide you with an estimate of the time and costs associated with redacting any exempt information from the responsive records.

The University will not expend the time and resources necessary to identify and gather the responsive records at the risk of taxpayer funds; consequently, you will be required to deliver advance payment in certified funds in the amount of **\$1,145.85** prior to the University commencing this process. If the estimated funds are insufficient to complete the process of identifying and gathering responsive records, 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 83844-3158.

Once the funds are received, we will commence the process of identifying and gathering responsive records. Once that is completed, we will then be able to provide you with an estimate of the time and costs associated with redacting any exempt information from the responsive records. At the conclusion of the process, copies will be provided to you at a cost of \$0.10 per page.

An attorney for the University has reviewed your request. There is no denial of access to public records; however, in the event you wish to contest this conclusion, 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 via email, if you have questions.

Thank you,

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

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

University of Idaho

From: Kover, Justin [REDACTED]
Sent: Monday, April 20, 2015 2:11 PM
To: Costa, Guilherme (gcosta@uidaho.edu)
Subject: Re: Exception to the Idaho Public Records Act

This response is interesting for several reasons. Let's try this - please fulfill the following public records request:

"In accordance with the Idaho Public Records Act, please provide me with all copies of all denials to all public records requests where an exception to the Idaho Public Records Act has been asserted by the University since the 1999-2000 academic year. Please redact any personal identifying information - I am interested only in the language used to assert the exceptions to the Act."

Justin Kover
J.D. Candidate, U of Idaho Law 2016
Marshall, Phi Alpha Delta - Borah Chapter

[REDACTED]

From: Costa, Guilherme (gcosta@uidaho.edu)
Sent: Monday, April 20, 2015 9:16 AM
To: Kover, Justin [REDACTED]
Cc: General Counsel Archive (gc-archive@uidaho.edu)
Subject: RE: Exception to the Idaho Public Records Act

Hi Justin,

Thank you for the email. Unfortunately, the University's Office of General Counsel is limited to providing legal advice to the University and its officers and employees. We do not provide legal advice to students or anyone else. Your email asks a number of questions about how the Office of General Counsel interprets the Idaho Code, and therefore is a request for legal advice.