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October 8, 2007

David Sobelman

RE: Public records request to Dysart Unified School District

Dear Mr. Sobelman:

This firm represents Dysart Unified School District ("District"). The District received a public records request from you dated September 14, 2007, asking for 15 categories of documents or items, some of which will result in a voluminous production of documents. You are required to pre-pay for the copies you have requested. A.R.S. § 39-121.01(D)(1). The cost will be 35 cents per page or the actual cost of non-paper copies.

The District will withhold confidential records from the records it produces. The right of access to public records is not unlimited. *See Carlson v. Pima County*, 141 Ariz. 487, 490, 687 P.2d 1242, 1245 (1984). Sometimes considerations of confidentiality, privacy, and the best interests of the government outweigh the policy in favor of disclosure. *Id.* Ariz. Const. Art. II, § 8. Courts do not require disclosure of documents, for example, in cases where the privacy interests of the child and family outweighed the rights of the public, and when the information sought had been provided by teachers who expected that it would be kept private. *See A.H. Belo Corp. v. Mesa Police Dept.*, 202 Ariz. 184, 42 P.3d 615 (App. 2002); *see also Scottsdale Unified Sch. Dist. v. KPNX Broadcasting Co.*, 191 Ariz. 297, 955 P.2d 534 (1998).

Dysart must comply with your request within a "reasonable" time period. Reasonableness is a factual determination and depends upon the accessibility of the material requested. In this case, given the voluminous nature of your request, the District estimates that several months from the date of payment will be needed to search for and retrieve all the documents. You asked for documents that span nine categories and lengthy time periods, involve many different employees, some of whom are no longer employed by the District, and implicate confidential personnel and student information, thereby requiring redaction. Thus, even when the District locates the subject documents, it must review them for confidential information, and will likely need to redact that information or withhold the document entirely.

The District may be able to respond to your request more quickly if you narrow your individual requests by identifying with specificity the information you seek. In addition, the District may be able to further accommodate your request by making documents available for review on a rolling basis. In any event, narrowing the request will help the District respond in a more timely fashion.

The following is the District's response to the specific categories of documents you requested. Where possible, the District has attempted to provide an opportunity for you to narrow your request so that the District may respond to your request more quickly and at less expense to you.

### **Request for Emails from Board Members and District Employees**

Categories 1, 3, 5, 6, 7, and 14 request copies of emails that span lengthy time periods, involve five different employees and the entire Governing Board, and likely implicate personnel, student information and other confidential matters. First, only District controlled email accounts will be reviewed. Second, the District will have to review the subject emails and decide whether they must be withheld as confidential, or whether it will be possible to redact any confidential information and produce the balance of the record. This is a time and labor-intensive task.

Also, given that you included Lynn Munier, the District's legal counsel, in your request, the District will also have to withhold or redact some documents on the basis of attorney-client privilege. Thus, even when the District locates the subject documents, it must review them for confidential or attorney-client privileged information, and will likely need to redact that information or withhold the document entirely.

In addition, the District may not have retained all of the emails dating back to January 1, 2007. The District retains email records in accordance with the email retention schedule established by the Arizona State Library, Archives, and Public Records Department for Arizona school districts. For example, "transitory correspondence" is retained for only three months after creation or receipt.

Moreover, it is possible that some of the emails requested, are personal. Personal emails, even when sent from government computers, do not necessarily constitute public records. *Griffis v. Pinal County*, 215 Ariz. 1, 156 P.3d 418 (2007). Again, in order to protect employees' privacy interests, the District will be required to review the emails and withhold those that are personal in nature.

The District may be able to respond to your request more quickly and at less expense to you if you narrow your individual requests by identifying with specificity the information you

seek and limiting the applicable time periods. Please let me know if you want to narrow your requests. Otherwise, the District estimates this request will involve more than 1,000 copies. Please remit payment of \$350.00 so that copying can begin. If more than 1,000 pages are copies, you will be notified of the additional estimated number and will need to pre-pay the estimated balance. Any unused portion will be refunded.

**Copies of Phone Messages, Phone Records and Phone Logs for Board Members and District Employees**

Categories 2, 4, and 8 ask for copies of phone messages, phone records, and phone logs for the entire Governing Board for a nine-month period and for two District employees for six-month and nine-month periods, respectively. The District's disclosure of these documents is subject to the same confidentiality restrictions outlined above. This request will also be limited to phone accounts and records controlled by the District. If you narrow your request to a shorter time period and particular subject matter, the District may be able to respond to your request more quickly and at less expense to you.

The District estimates approximately 300 pages of these documents exist. Please remit payment of \$105.00 and it will begin making the copies.

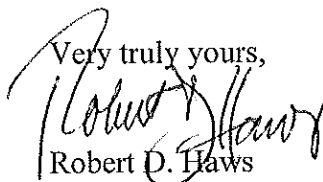
**Request for Audio Recordings from Board Meetings and Board Updates**

The District will provide the audio recordings from various Board meetings as requested in categories 9 through 13. The District will also provide the single email requested and the documents in category 15, which requests copies of Governing Board update emails sent by Dr. Pletnick between August 1 and August 17. The estimated charges are as follows:

Board Meeting – August 27, 2007 - \$3.00  
Board Meeting – September 12, 2007 - \$3.00  
Board Meeting – January 4, 2007 - \$25.00 (mini-disc, 2 hours 40 minutes of recording)  
Board Workshop – March 10-11, 2007 - \$600.00 (micro-cassette, 2 days of recording)  
Board Meeting – March 29, 2007 - \$25.00 (mini-disc, 2 hours of recording)

Again, copying will commence upon receipt of pre-payment.

Dysart looks forward to working with you to respond to this request.

Very truly yours,  
  
Robert D. Haws  
For the Firm

David Sobelman

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10/8/2007

RDH: kjs

Cc: Dr. Gail Pletnick  
Lynn Montanya

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