

[REDACTED]

ALEXANDER HENSON ESQ.
ATTORNEY AT LAW

[REDACTED]

[REDACTED]

September 20

Via E-mail

tzarevich@carmelunified.org

Board of Education
Carmel Unified School District
Attention: Tricia Zarevich,
Admin. Assistant to the Board
4380 Carmel Valley Road
Carmel, CA 93923

Re: Public Records Act Request

Dear Ms. Zarevich:

Pursuant to the California Public Records Act, Government Code Section 6250 *et seq.*, I hereby request copies of or access to the following public records in the actual or constructive custody, control, or possession of the Carmel Unified School District ("CUSD"):

(2) Any and all DOCUMENTS RELATED TO or REGARDING the or any LIMITATIONS OF USE on real property owned or operated by the CUSD at the Carmel High School facilities, with special reference to limitations on use of the football field, playing fields and other athletic fields and facilities at the high school, put in place, in whole or in part, for the purpose of maintaining the quiet enjoyment of the neighborhood surrounding the school.

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(2) Any and all COMMUNICATIONS dated between January 1, 2015, and the present REGARDING any LIMITATIONS OF USE or DOCUMENTS RELATED TO said LIMITATIONS OF USE at the high school.¹

For the purposes of this request:

1. “**LIMITATIONS OF USE**” shall mean any limitations, restraints, stipulations or conditions on the use or future use or development of any real property owned by or transferred to or acquired by CUSD, or any predecessor of the CUSD, on that real property which now comprises Carmel High School, and more specifically the football field or any other playing or athletic field or facilities at the high school

2. “**COMMUNICATIONS**” shall mean any and all draft and final versions of emails, letters, faxes, records of telephone conversations, phone logs, text messages, or any other writing as defined in California Evidence Code section 250, including without limitation all draft and final versions of emails saved, sent or received by any employee, agent, member, director, manager, officer or consultant of CUSD, including when using such individual’s personal or business email address where such individual was acting in the discharge of his or her official CUSD duties.

3. “**DOCUMENTS**” shall mean any and all public records as defined under the California Public Records Act, including without limitation deeds, documents of conveyance and the like, agreements, reports, records, drafts, letters, memoranda, notes, communications, inspection reports, logs, tables, spreadsheets, books, photographs, electronic files, emails, text messages, social media posts, facsimiles, diagrams, documents, exhibits, attachments and every other means of recording upon any tangible thing any form of communication or representation.

“Public record” is defined broadly to include “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained

¹ These communications shall include but not be limited to those sent or received by or exchanged between any and all past and present employees, agents, members, directors, managers, officers and consultants of CUSD.

by any state or local agency regardless of physical form or characteristics.” (Gov. Code § 6252, subd. (e)) “Writing” includes “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (*Id.*, subd. (f).) The definition of “public records” is “intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed. Only purely personal information unrelated to ‘the conduct of the public’s business’ could be considered exempt from this definition, i.e., . . . [a document] which is totally void of reference to governmental activities.” (*Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 340.)

Further, “public records” include a public employee’s documents and communications related to the conduct of public business that are sent, received, or stored using a personal device or account. (*City of San Jose v. Super. Ct.* (2017) 2 Cal.5th 608, 625.) “A writing retained by a public employee conducting agency business has been ‘retained by’ the agency within the meaning of [the Public Records Act] even if the writing is retained in the employee’s personal account,” including emails and text messages. (*Id.* at 623, 629; *Cnty. Youth Athletic Ctr. v. City of National City* (2013) 220 Cal.App.4th 1385, 1428.)

4. “**RELATED TO**” or “**REGARDING**” shall mean in whole or in part to discuss, describe, reflect, memorialize, contain, analyze, study, report on, comment on, evidence, constitute, embody, identify, state, consider, recommend, set forth, concern, address, deal with or in any way pertain to.

4. The terms “**and**” and “**or**” are used herein as terms of inclusion and not of exclusion and shall have both conjunctive and disjunctive meanings, and the words “**any**” and “**all**” mean each and every.

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We expect the CUSD to search records for all responsive public records that may be in the actual or constructive custody, control or possession of (a) CUSD, (b) all current or former CUSD employees, staff and/or agents; (c) all elected or appointed CUSD officials, including but not limited to current or former members of the CUSD Board of Education; (d) all other appointed CUSD officials, employees and consultants and (e) a public agency repository for the filing or recording of public documents including those related to CUSD and its properties.

If, for any reason, the CUSD decides to withhold or otherwise redact information contained in its files relating to the public records described above on the basis of privilege, please provide a statement describing the nature of any such material and the basis for any such decision, citing the legal authorities on which CUSD relies.

As required by Government Code section 6253, *please reply to this request promptly, no later than ten (10) days from today.* In the alternative, we are amenable to electronic disclosure of the records requested to the extent that such disclosure is more convenient and may be made in a more expeditious fashion. To the extent that certain categories of requested documents are available before others, we ask that you please provide such documents on a rolling basis.

If you have any questions regarding this request, please feel free to contact me at [REDACTED]

[REDACTED]. Thank you in advance for your courtesy and attention to this matter.

Sincerely,

ALEXANDER HENSON ESQ.
ATTORNEY AT LAW

CC:CLIENT