

Dare County Citizens for Constitutional Rights

3841 N. Croatan Hwy #1702
Kitty Hawk, NC 27949-9238

October 12, 2021

Via Hand Delivery:

Dare County Schools Administration
Attn: Carl Woody

RE: NORTH CAROLINA PUBLIC RECORDS REQUEST

Dear Member Carl Woody,

You are being contacted on behalf of Dare County Citizens for Constitutional Rights, a group of concerned Dare County residents organized for the purpose of defending the Constitutional Rights of North Carolina citizens. Dare County Citizens for Constitutional Rights requests certain records in accordance with the North Carolina Public Records Act.

In its own capacity and as a representative of thousands of North Carolina members of the public, we are entitled to receive copies of, or an opportunity to review, any non-exempt "public records" which the Dare County Board of Education and associated entities possess. Under Chapter 132 of the North Carolina General Statutes (the, "Public Records Act"), a "public record" includes:

"all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions."

N.C. Gen. Stat. § 132-1(a).

It is the public policy of North Carolina that such records be made available to the public unless otherwise specifically provided by law. Id. at § 132-1(b). According to numerous decisions by the courts of North Carolina, Public Records Act provides for liberal access to public records.¹ Public records may be withheld from disclosure under the Act only if an agency or record is specifically exempted under the statute. G.S. §§ 132-1 to 132-10 et seq.² However, exceptions to the Public Records Act should be strictly construed, and those seeking to come within the exception have the

¹ Jackson v. Charlotte Mecklenburg Hosp. Authority, 238 N.C. App. 351, 768 S.E.2d 23 (2014); Wallace Farm, Inc. v. City of Charlotte, 203 N.C. App. 144, 689 S.E.2d 922, review denied 364 N.C. 334, 701 S.E.2d 681 (2010); Knight Pub. Co. v. Charlotte-Mecklenburg Hosp. Authority, 172 N.C. App. 486, 616 S.E.2d 602, review denied 360 N.C. 176, 626 S.E.2d 299 (2005).

² See also Times-News Pub. Co., Inc. v. State, 124 N.C. App. 175, 476 S.E.2d 450, appeal dismissed, review denied 345 N.C. 645, 483 S.E.2d 717

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burden of justifying their action.³ In the absence of clear statutory exemption or exception, documents falling within the definition of “public records” in the Public Records Act must be made available for public inspection. (emphasis added).⁴

Dare County Citizens for Constitutional Rights and its members are seeking public records pertaining to, or responsive to, the following categories:

SEE ATTACHED EXHIBIT A.

It is expected that the requested records would be made available for inspection, or copies provided, in a reasonable period of time.⁵ Thus, we ask that the responsive public records be made available within the next 14 business days. Delays in making the requested public records available will necessitate compelling compliance in court.⁶

In an effort to minimize waste and reduce environmental impact, the requested method of delivery is electronic to this email: DCC4CR@protonmail.com. Should you still choose to provide copies, the copies should be aggregated and/or labeled by category to indicate which part of the request they are responsive to. Also, please indicate which records are only available by inspection and the dates, times, and locations where they may be accessed. If you believe a particular record is exempted from disclosure, please provide a description of the document being withheld and the statutory exemption you believe applies.

We appreciate your prompt attention in addressing this matter. If you have any questions or concerns about this request, please contact Dare County Citizens for Constitutional Rights at: DCC4CR@protonmail.com

³ See *News & Observer Pub. Co. v. Interim Bd. of Ed. for Wake County*, 29 N.C. App. 37, 47, 223 S.E.2d 580, 586–87 (1976) (discussing principle of strict construction as applied to the North Carolina Open Meetings Law).

⁴ *Knight Pub. Co. v. Charlotte-Mecklenburg Hosp. Authority*, 172 N.C. App. 486, 616 S.E.2d 602, review denied 360 N.C. 176, 626 S.E.2d 299 (2005).

⁵ See N.C. Gen. Stat. § 132-6(a) (“Every custodian of public records shall permit any record in the custodian's custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law.” (emphasis added)); see generally N.C. Gen. Stat. § 132-6(d) (“the agency shall disclose as soon as practicable,” and “within 25 business days”).

⁶ See *Cline v. Hoke*, 2014, 238 N.C. App. 16, 766 S.E.2d 861 (2014) (In order to compel an unresponsive custodian of public records to fulfill his statutory duty to permit reasonable inspection of those records by the public, a party must sue the custodian of the records in the custodian's official capacity.)

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Respectfully submitted,
Dare County Citizens for Constitutional Rights

On behalf of:

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Kitty Hawk, NC 27949-9238

Cc:

John Farrelly, Superintendent of Dare County Schools, farrellyjo@daretolearn.org

Mary Ellon Balance, Chairman Dare County Board of Education, ballanceme@daretolearn.org

Margaret Lawler, Vice-Chairman Dare County Board of Education, lawlerma@daretolearn.org

Susan Bothwell, Member Dare County Board of Education, bothwellsu@daretolearn.org

Frank Hester, Member Dare County Board of Education, frankhesterd1@gmail.com

Joe Tauber, Member Dare County Board of Education, joetauberlaw@yahoo.com

Carl Woody, Member Dare County Board of Education, woodycarl@daretolearn.org

David Twiddy, Member Dare County Board of Education, twiddyda@daretolearn.org

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EXHIBIT A

- All correspondences from June 2021 to October 2021 received by the Dare County Board of Education and/or Superintendent John Farrelly from Governor Roy Cooper (to include the letter referenced in the Board of Education meeting presentation on 9-1-21).
- All records and documentation pertaining to the Dare County Schools most recent employment contract (including all amendments) with Superintendent John Farrelly.
- All records, documentation, and correspondences regarding the Dare County Schools LEA applications to NCDPI, approved plans by NCDPI, and contracts with NCDPI to receive ESSER/GEER funding.
- All records and documentation providing an itemized accounting of ESSER/GEER/CARES Act/Coronavirus Relief Fund funding utilization within Dare County Schools and/or the greater Dare community (to include any non-profits/501(c)(3)/501(c)(4) funding recipients).
- All emails, documents, and correspondences from 9/14/21 to 10/12/21 between/among Dare County Schools teaching staff, principals and vice-principals, Superintendent Farrelly and his staff, and/or the Board of Education pertaining to Superintendent Farrelly's "interim masking" requirement with effective date of 10/5/21 (to include emails/documents with a subject line stating a child's name followed by the words "crash course").