

## **Right to Know Advisory Committee**

### **Written Materials Submitted for Public Comment at November 17, 2022 Meeting**

- 1. Email submitted by Nina Wright, York, Maine**
- 2. Letter submitted by Maine Policy Institute**
- 3. Materials submitted by Shawn McBreairty to supplement oral comment**

## McCarthyReid, Colleen

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**From:** Nina Wright <ninawright61@icloud.com>  
**Sent:** Thursday, November 17, 2022 9:15 AM  
**To:** McCarthyReid, Colleen  
**Subject:** FOAA

This message originates from outside the Maine Legislature.

Good Morning

I am unable to attend the Zoom call today. However I would would like to address some issues we are having in Southern Maine with FOAAs and specifically with the school department.

We use our constitutional right and freedom to request these. Often times a simple search word will be beyond the 2 hour non chargeable time and the charges seem grossly excessive. With advances to digital data this should be a simple search.

We are requesting these because there is no answer when we present our questions at the school board meetings. Additionally they are posting the names of those of us who request FOAAs. This wouldn't be so bad if they would post the answers as well. They are not posting the answers to the FOAAs.

Our taxes in York pay for the schools. Also 63 percent of our taxes are for the school. The budget keeps increasing while enrollment and academics are decreasing. We have a right to know why we are not getting a good return on our investment.

Kind Regards,

Nina Wright  
York Maine

Sent from my iPhone



Dear Members of the Right to Know Advisory Committee,

Thank you for your consideration of testimony regarding Maine's Freedom of Access Act.

As you know, Maine's Freedom of Access Act is a vital tool for journalists and non-profits to investigate and understand the activities of state government. FOAA is the cornerstone of citizens' ability to see into the workings of government and hold government officials accountable for their decisions.

However, when Maine's public records law is abused by public officials to unnecessarily delay the provision of records to the public, transparency suffers. That is precisely what is happening with a simple request for public records submitted well over one year ago by the Maine Policy Institute.

That request sought records from the Governor's Office and Maine DHHS / Maine CDC's decision to kick reporters from The Maine Wire, MPI's online news outlet, off COVID-19 briefing calls. That decision, itself an assault on government transparency, is a public action Mainers deserve to know more about. However, the Governor's Office and Maine DHHS have unreasonably delayed a simple request for emails concerning that decision.

Our request for public records relating to that decision is an act of routine journalism, not some witch hunt or overly laborious task. Fulfilling that request should have been quick and easy. Why those records have not been provided, why the Governor's Office and Maine DHHS have delayed so long, we can only speculate.

However, we urge the committee to address the issue of unreasonable delays. Under the current statute, government actors can delay record requests for any reason, effectively running out the clock. This issue is especially concerning when political officials can withhold documents from the public that might influence their reputations prior to elections.

We understand that this committee is concerned with the unreasonable burden that superfluous FOAA requests are placing on some government agencies, but we would urge you to also consider the unreasonable lengths of time some government offices are taking to provide records.

These delays are unreasonable, undemocratic, and anathema to transparent government. They ought to be of utmost concern to this committee and anyone interested in transparent, accountable government.

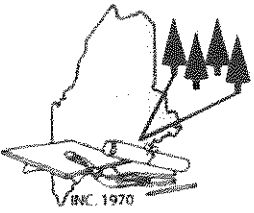
Respectfully,

Jacob Posik  
Director of Communications  
Maine Policy Institute

Submitted for RTKAC Review  
by Mr. McBrearty 11/17/22

# Maine Regional School Unit #22

Hampden, Newburgh, Winterport, Frankfort



24 Main Road North • Hampden, ME 04444 • Phone (207) 862-3255 • Fax (207) 862-2789

REGAN NICKELS  
Superintendent of Schools  
rnickels@rsu22.us

CHRISTINE BOONE  
Assistant Superintendent for District Development  
cboone@rsu22.us

RE: Request for Public Records Dated October 7, 2021

Dear Shawn:

In follow up to your request *"Interesting...let's widen the net then. Provide for inspection any RSU22 materials regarding equity, anti-racism, anti-racist, racism, Black Lives Matter, BLM, Critical Race Theory, CRT, social, or racial justice, privilege, prejudice, oppressed, oppressor, microaggression, cultural appropriation, reparations, intersectionality, inclusion, diversity, bias, institutional, or structural racism, Ibram X. Kendi, or white supremacy from August 2021 to date, that was not already provided. This would include any ad hoc committee information and any documented RSU22 student group hosted events also."*

Regional School Unit #22 will make available to you all "public records" falling within your request that are in the District's custody and control. However, the District will not be producing records which are designated confidential by statute (1 M.R.S.A. §402(3)(A)), or records which are otherwise privileged or confidential (including communications that are protected by the attorney-client privilege or work product doctrines). Records which are considered confidential and not subject to disclosure under the Act would include, but are not limited to, records pertaining to students (20-A M.R.S.A. §6001 and the federal Family Educational Rights and Privacy Act), records including the personal contact information of public employees (1 M.R.S.A. §402(O)), records concerning pending or threatened litigation, records consisting of employee or applicant records (or that include comments about any employee's character, performance, or conduct)(20-A M.R.S.A. §6101), records prepared for an executive session of the school board, and records describing the District's security plans/procedures (1 M.R.S.A. §402(L)).

The District will need to gather and review all records that may exist and may need to work with its legal counsel to determine what records are "public records" that can be made available for inspection. As you may be aware, the FOAA provides that public entities may charge a reasonable fee to cover copying costs and also an hourly rate to cover the cost of searching for, retrieving, and compiling records (including reviewing and redacting confidential information from those records if the District determines that it can do so). Given the breadth of your request, and the number of individuals in the District that may have records falling within the scope of your request, our good faith, non-binding estimate is that it will take approximately 305 hours to conduct this search and estimate that we could make the requested public records available to you on or about June 8, 2022. We also estimate that the cost associated with your request will be \$21,037.15. This excludes the cost to the District of having legal counsel weigh in on what records fall within the definition of a "public record".

\$68.97/HR ≠ \$25/HR


We recognize this search is expensive and time consuming. If you would like to narrow and tighten your scope, we could potentially eliminate groups of employees who are likely not to have relevant records therefore reducing the production costs and delivery time.

Maine law expressly affords public entities the right to require an advance payment before commencing the search, retrieval, compilation process where, as here, the costs to complete the request are expected to exceed \$100. 1 M.R.S.A. §408-A (10). Therefore, upon receipt of your payment of \$21,037.15 to cover the estimated costs to complete the request, the District will commence the search and make available to you for inspection and copying the "public records" you have requested in a reasonable period of time estimated to be June 8, 2022.

The search and compilation process will be conducted in a manner that does not delay or interfere with the regular activities of the District.

Thank you for your email, and please let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Regan Nickels". The signature is written in black ink and is positioned above the typed name.

Regan Nickels  
Superintendent