



OFFICE of GOVERNMENT INFORMATION SERVICES

April 8, 2015 - Sent via Email

[REDACTED]

Re: Case No. 201500527
NG: CM: AB

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION
8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear [REDACTED]

This responds to your request for assistance from the Office of Government Information Services (OGIS), received on March 19, 2015. Your request for assistance pertains to your efforts to obtain records from the Department of Defense Education Activity (DODEA) regarding [REDACTED].

As you know, Congress created OGIS to complement existing Freedom of Information Act (FOIA) practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

We contacted the Department of Defense (DOD) to discuss its decision that affirmed DODEA's initial response to your request. According to DOD, the material that was withheld is clearly protected under the FOIA's privacy protections; specifically, FOIA Exemption 6. The materials withheld include [REDACTED] transcript, a list of classes, [REDACTED] resume, and information [REDACTED] entered into DODEA's Employment Application System.

FOIA Exemption 6, 5 U.S.C. § 552(b)(6), protects information from release that would be a "clearly unwarranted invasion of personal privacy." DODEA and other federal agencies use Exemption 6 to protect the identity of third parties in much the same way that it would protect your identity were it to receive a request for your records from anyone other than you. Courts have found that although Federal employees may have lesser privacy rights than other individuals, those individuals do not "waive all privacy interests." *Forest Serv. Employees for Env'tl. Ethics*, 524 F.3d 1021, 1025 (9th Cir. 2008).



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April 8, 2015

Page 2 of 2

With respect to your right to know under the Individuals with Disabilities Education Act (IDEA), please know that FOIA requests are processed solely on the basis of FOIA's nine exemptions and applicable FOIA policies. Under FOIA, a release of information to anyone is considered a release to the public. Thus, DODEA could not release any of this non-public information only to you without making it available to anyone else who requests it. You might find it helpful to discuss your right to know under IDEA with your local school officials.

In a case such as this where an agency is firm in its position, and where FOIA law and policy leaves no room for discretionary releases, there is little else that OGIS can do by way of assistance beyond providing more information about the agency's actions. While I understand that this is not the result for which you hoped, I hope that this additional information about your request is useful to you. Thank you for bringing this matter to OGIS; at this time there is no further action for us to take and we will consider this matter closed.

Sincerely,

/S/

Nikki Gramian, Acting Director
Office of Government Information Services

cc: Danaeka Spear, Chief, Appellate Office, Department of Defense