

MEMORANDUM

TO: Tennessee Superintendents and Directors of Schools

FROM: Chuck Cagle and Angela Sanders
Lewis, Thomason, King, Kreig & Waldrop, P.C.

DATE: August 22, 2014

RE: PET Public Records Requests

Members of TOSS:

Many of you have received a public records request from PET for the names and email addresses of school system personnel and “2014 retiring staff.” In their letter, PET specifically requests such information to be emailed in an Excel file or to be mailed in CD form to them.

The names and system-issued e-mail addresses of school system personnel are public information subject to the Open Records Act. We have consulted with Elisha Hodge, legal counsel at the Tennessee Office of Open Records within the Tennessee Comptroller’s Office regarding PET’s request. Ms. Hodge advised that if you maintain the requested e-mail addresses and names in an electronic database, that you should export the names and e-mails to an electronic format that you can then mail on CD or e-mail to PET. However, there is no requirement that you convert the file to Excel format if that is not the format that your program exports the file into. Ms. Hodge also recommended that the file be sent as a PDF whether on e-mail or via CD. The case *Tennessean v. Electric Power Board of Nashville*, 979 S.W.2d 297 (Tenn. 1998) supports this position that electronically stored information must be produced if requested in electronic format.

With regard to PET’s request for the names and e-mails of “2014 retiring staff”, you can choose to comply with this request if you have such information, however we feel it would be appropriate to respond that this request is not sufficiently detailed to allow you to identify the specific records requested, as required by Tenn. Code Ann. § 10-7-503(a)(7)(B). In our determination, it is unclear what is meant by the term “2014 retiring staff.” In addition, many of you may not possess the e-mail addresses of retired persons because they have retired from the system and are no longer employees. Also, in many cases, because they have retired they no longer have a school system e-mail and personal, non-government issued e-mail addresses are confidential records under Tenn. Code Ann. § 10-7-504(f)(1)(H).

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We are providing this information to you as legal counsel to the Tennessee Organization of School Superintendents. However, we caution you to please consult with your school board attorney prior to responding to any public records request.