

**IN THE CHANCERY COURT FOR SUMNER COUNTY
TENNESSEE AT GALLATIN**

KENNETH L. JAKES,)	
)	
Plaintiff,)	
)	
vs.)	NO. 2014-CV-53
)	
SUMNER COUNTY BOARD OF EDUCATION,)	
)	
Defendant.)	

**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

COMES NOW, the Plaintiff, Kenneth L. Jakes, by and through counsel and respectfully moves this Court to deny the Defendant's Motion for Summary Judgment, or in the alternative, pursuant to Rule 56.07, to continue the Motion for Summary Judgment to allow additional discovery related to the material facts in this matter. In opposition to the Defendant's Motion for Summary Judgment, the Plaintiff would state that the facts upon which Defendant relies are not undisputed and, therefore, this matter is not ripe for a Motion Summary Judgment, at least without further discovery. Further, the Plaintiff would respectfully submit Defendant's public records request policy, as asserted by Defendant, is not in compliance with the with the Tennessee Public Records Act, and, thus, Defendant is not entitled to summary judgment as a matter of law. Attached hereto and filed contemporaneously herewith is 1) Affidavit of Kenneth L. Jakes in Opposition to Defendant's Motion for Summary Judgment, including exhibits 2) Affidavit of Kenneth L. Jakes in Response to Defendant's Statement of Undisputed Material Facts, including exhibits, and 3) a Memorandum of Law in Opposition to the Defendant's Motion for

Summary Judgment, including with exhibits.

WHEREFORE, having good cause shown, the Plaintiff respectfully submits that the Court should enter an Order denying the Defendant's Motion for Summary Judgment or, in the alternative, continue this matter until additional discovery can be completed.

Respectfully submitted,

HAYNES, FREEMAN & BRACEY, PLC



KIRK L. CLEMENTS, BPR NO. 020672
Attorney for Plaintiff

140 North Main Street
P.O. Box 527
Goodlettsville, TN. 37072
(615) 859-1328
(615) 851-9620 Fax

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been forwarded to J. Todd Presnell, Attorney for Defendant, Aroundabout Plaza, 1600 Division Street, Suite 700, Nashville, Tennessee 37203, on this the 2nd day of January, 2014.



KIRK L. CLEMENTS

**IN THE CHANCERY COURT FOR SUMNER COUNTY
TENNESSEE AT GALLATIN**

KENNETH L. JAKES,)	
)	
Plaintiff,)	
)	
vs.)	NO. 2014-CV-53
)	
SUMNER COUNTY BOARD OF EDUCATION,)	
)	
Defendant.)	

**AFFIDAVIT OF KENNETH L. JAKES
IN OPPOSITION TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

I, Kenneth L. Jakes, having been duly sworn do attest as follows:

1. I am over age of 21 years of age and am competent to testify.
2. I am the Plaintiff in this matter and I have brought this civil action specifically targeting the actions of Del Phillips and Jeremy Johnson and their failure to lawfully respond to the records request that I submitted in March 2014.
3. I have made records requests to at least 20 different governmental entities in the middle Tennessee area and not one has ever refused to accept a records request by electronic mail. This includes the Metropolitan Nashville-Davidson County government, the Tennessee Department of Transportation, the Tennessee Highway Patrol, the City of Goodlettsville, the City of Millersville, the City of Hendersonville, the Hendersonville Police Department and the Sumner County government. Almost universally, these government entities have been proactive in ensuring that the non-confidential records are available to me and other Citizens for our inspection and review and such are available in the most

convenient and efficient manner possible. Many government entities not only accept requests by electronic mail, but they also provide the information requested promptly and by electronic mail.

4. In March of 2014, I was advised by Neil Siders, a local journalist, that the Sumner County Board of Education did not have a written public records request policy. Further, I was told by Kurt Riley that Jeremy Johnson was refusing to accept records requests by electronic mail. Given my experience with governmental entities in general being accommodating, on March 21st, 2014, I sent Mr. Johnson an e-mail requesting a copy of the records request policy. (See Exhibit A). Therein, I explicitly stated that if the policy was “online”, please provide the link and I would review the policy at that time. I also left a voice mail message for Mr. Johnson making the same request as the Office of Record Counsel has advised me that records requests to inspect can be made by telephone. Mr. Johnson responded by e-mail that he would not accept my email as a request. This was very surprising to me given my conversations with Neil Siders and my experience with other governmental entities.

5. Given the peculiar circumstances of Mr. Johnson communicating by electronic mail, but yet saying he could not communicate by electronic mail and the fact every other governmental entity with which I dealt accepted requests by electronic mail, I made a second request on March 31th, 2014, in which I requested all communication regarding my first request. (See Exhibit B). To date, I have not received a response.

6. Attached hereto as Exhibit C is a printout from the Sumner County Board of Education’s website titled “Financial Transparency”. Therein, an agent of the Defendant specifically references a March 10th, 2014 records request by Kurt Riley and thereafter a detailed explanation of the records that Mr. Riley reviewed. Thus, it is apparent that the School Board is very concerned about disclosing financial records.

7. On September 10th, 2014, I made a third request seeking all of Mr. Phillips travel expenses for January 1, 2014 through August 31, 2014. I also left a voice mail with Mr. Johnson regarding the same request and followed up with another e-mail on the same day. (See Exhibit D). In response, I received a letter dated September 16th, 2014 (but post marked September 17th, 2014) by certified mail, the cost of which was \$6.48. (See Exhibit E). Therein, Mr. Johnson stated he would not accept my records request and he enclosed a form he stated I would need to complete and return to the Director's office. Despite the illegality of Mr. Johnson's request, I did fill out the form and resend it to Mr. Johnson via electronic mail. (See Exhibit F)

8. On or about October 1, 2014, I received another letter from Mr. Johnson via certified mail at a cost of \$6.48. (See Exhibit G). Therein, Mr. Johnson stated that though he did receive my email and the form I completed, I had to either send it via U.S. Mail or deliver it in person to the Director's office.

9. I live approximately 45 miles from the Director's office and it would create a hardship for me to have to appear twice at the Director's office for each request, once to request to inspect and second time to make the inspection. This seems entirely unnecessary to me given that the law requires that I can make a request by telephone and common sense dictates I can make a request by electronic mail (or even by facsimile) or other similar methods. I have genuine concerns that if I send requests by U.S. Mail, I will not be able to determine when it was received or even if it was received and actually anticipate that unless I take the time to send certified mail, the Defendant, given its transparent attempt to frustrate the Citizens efforts to inspect records, will simply deny it ever received my letter by U.S. Mail . At that point, I will be unable to prove or disprove such a claim.

FURTHER AFFIANT SAITH NOT.

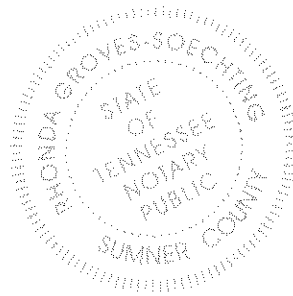
Kenneth L. Jakes
KENNETH L. JAKES

Sworn to and subscribed before me on

this the 31st day of December, 2014.

Ronda Groves-Soechting
NOTARY PUBLIC

My commission Expires: 12/19/2016



From: "Ken Jakes" <ken.jakes@comcast.net>

To: "Jeremy johnson" <Jeremy.johnson@sumnerschools.org>

Sent: Friday, March 21, 2014 4:34:36 PM

Subject: Public records request for records policy

Mr. Johnson as a public record request to inspect and review please provide the following for my inspection.

The Records Policy for the Board of Education. If the records policy is on line you can simply provide the link. If not contact me when ready for my review.

Thank you,

Ken Jakes 615-347-3379.



Kirk Clements

From: Ken Jakes [ken.jakes@comcast.net]
Sent: Monday, March 31, 2014 9:31 AM
Cc: Clements, Kirk
Subject: Fwd: Any and all communications public record request.

From: "Ken Jakes" <ken.jakes@comcast.net>
To: "Jeremy johnson" <Jeremy.johnson@sumnerschools.org>
Sent: Monday, March 31, 2014 9:29:40 AM
Subject: Any and all communications public record request.

Mr. Johnson, as a public record request to inspect and review please provide me the following

Any and all communications between you and any other party or parties concerning my first public record request for the Board of Education to provide for my inspection the BOE records policy.

This is to include but not be limited to the following.

All emails SENT OR RECIEVED.

All audible recordings and voice mail by all parties.

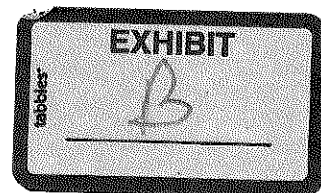
All letters.

All memos.

All text messaging

Should for any reason you not understand this request please contact me.

Ken Jakes
cell 615-347-3379.
home 615-876-6220
office 615-227-1993
fax 615-227-1863
email Ken.jakes@comcast.net



[Home](#)[Financial Transparency](#)

Financial Transparency

- [Financial Transparency](#)
- [Statements Using General Purpose Funds](#)
- [Statements Using Federal/State Grant Funds](#)
- [Statements Using Daycare Funds](#)
- [Charge to hold rooms for student HOSA](#)

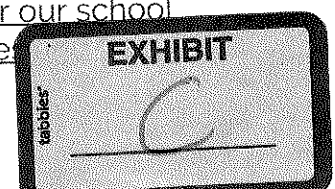
On March 10, 2014, Kurt Riley representing Sumner United for Responsible Government (SURG) filed an Open Records Request with our office to "review and inspect any and all credit card statements for all employees, elected officials, and other personnel from July 2013 to current." [View Mr. Riley's March 10, 2014 request here.](#)

The Sumner County School District uses government purchase cards also called "P-cards" to make routine district purchases. P-cards differ from traditional credit cards as they allow Sumner County Schools (SCS) to place restrictions on where and how P-cards can be used for purchases. All P-card balances are paid in full at the end of each month. Employees are required to keep and submit all receipts of purchases. P-card statements and all supporting documentation must be reviewed and approved by the employee, the employee's immediate supervisor and/or department head. All P-card purchases are then reviewed by our Accounts Payable Department. Any statement with activity over \$500 is additionally reviewed by an accountant in the Finance Department. [View the SCS "Commercial Card Program Policies and Procedures Guide" here.](#) Every employee who is issued a P-card is required to review this guide and sign a statement acknowledging that they have read the guide in full and will adhere to its policies. Only SCS employees who need to make routine purchases as part of their job function are issued P-cards. No elected official has access to a SCS P-card.

Mr. Riley visited the Central Office on March 20, 2014 to inspect and review the requested documents. He chose to review the statements from July 2013 and August 2013 during that visit. Mr. Riley flagged and requested additional documentation for 17 employee P-card statements from those specified months. [View Mr. Riley's March 20, 2014 request here.](#)

Of those 17 statements and documented receipts:

- [Ten statements were for purchases made by daycare employees for our school daycare programs. Items purchased included snacks, activity supplies](#)






expenses. School daycares are self-funded through fees paid by parents for daycare services. Per Tennessee Department of Education requirements, monies raised through daycare fees can only be used on expenses for the children served in that school's daycare.

- Three statements were from employees whose departments are funded through state and federal grants. The majority of the flagged purchases were for classroom supplies to support our EL (English Learners) and Unity.com programs.
- Three statements were from employees using General Purpose Budget funds. Our General Purpose Budget is funded by a combination of state revenue and county revenue through property and sales tax. The flagged purchases represent the purchases of classroom instructional supplies, routine training for employees and other routine district purchases.
- One statement was from a Career and Technical Education (CTE) employee who used their P-card to hold rooms for Beech High School students to attend a HOSA competition. These rooms were paid for from the Beech High School activity fund account, and the hold was fully credited back to the district, leaving a zero balance.

The side menu links include the supporting documentation for Mr. Riley's request, as well as further explanation of the funding sources and how these items are used within our district. We encourage everyone to review these pages and their links to the supporting documentation for each purchased item to further understand how they are used within our school system. We felt like it was important for all citizens to have access to this information.

Preparing Graduates: Engaging Minds, Developing Character

 Meal Pay	 Teacher Tools	 Parent Portal
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New to Sumner

- [Enrollment Information](#)

Forms

- [Application for Free and](#)

Reports

- [State Report Card](#)

Helpful Links

- [Invitation for Bid](#)

Contact

Sumner County Schools

- [Student Handbook](#) PDF
- [Locate school zones and bus routes](#)
- [School Nutrition](#)
- [School Start Time](#)

- [Reduced Benefits](#)
- [Career & Technical Education Forms](#)
- [Parent/Student Forms](#)

- [Records Request](#)
- [504 Information](#)

- [kidcentral TN](#)
 - [Transfer for Students Victimized by Violent Crime](#)
 - [Emergency Notification System \(SchoolCast\)](#)
- 695 East Main Street
Gallatin, TN 37066
(615) 451-5200



© Sumner County Schools

Design by 

Kirk Clements

From: Ken Jakes [ken.jakes@comcast.net]
Sent: Wednesday, September 10, 2014 3:09 PM
To: Clemments, Kirk
Subject: Fwd: 2014 travel Expense of Del Philips public record request.

From: "Jakes, Ken" <ken.jakes@comcast.net>
To: "Jeremy johnson" <Jeremy.johnson@sumnerschools.org>
Sent: Wednesday, September 10, 2014 3:08:43 PM
Subject: Re: 2014 travel Expense of Del Philips public record request.

Mr. Johnson, because I did not know which manner you would receive first, I made the below request by phone and left voicemail on both your work line 615-451-6510 and your cell phone 615-594-0652.

Thank you.

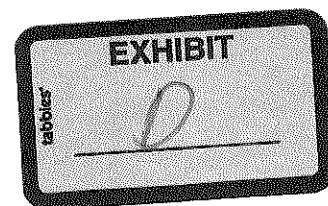
Ken Jakes.

From: "Jakes, Ken" <ken.jakes@comcast.net>
To: "Jeremy johnson" <Jeremy.johnson@sumnerschools.org>
Sent: Wednesday, September 10, 2014 3:00:33 PM
Subject: 2014 travel Expense of Del Philips public record request.

Mr. Jeremy Johnson, please provide for my inspection and review the following public record request. Should you have any questions concerning this request, please contact me.

Please provide any and all documentation for reimbursements for any and all related expenses for travel for Dell Philips. The time frame of this request is for the beginning date of Jan. 1, 2014 through the date of August 31, 2014.

Thank you Ken Jakes.





Sumner County Board of Education

Del R. Phillips III, Ph.D.

Director of Schools

695 East Main Street Gallatin, TN 37066-2472

Phone: (615) 451-5200 Fax: (615) 451-5216

September 16, 2014

Ken Jakes
5920 Clarksville Pike
Joelton, TN 37080

Dear Mr. Jakes:

I was out of state on vacation from September 6, 2014 through September 14, 2014. I did not have access to my email or voicemail during this time. I received your voicemail asking for certain public records after I returned from my vacation on September 15, 2014.

As you know, the Board's policy requires citizens to make public records requests by appearing in person with a valid identification, or via mail by completing the records request form.

For your convenience, I have enclosed the form by which you may make a records request with our office. You may submit your request via U.S. mail to 695 East Main Street, Gallatin, TN 37066 attention Director's Office or you may make your request in person. Our office hours are 8 a.m. to 4:30 p.m. Monday through Thursday and from 8 a.m. to 4 p.m. on Friday.

Sincerely,

Jeremy Johnson
Board and Community Relations Supervisor

Board of Education Members

Alice Bachman - Tim Brewer - David A. Brown - Patricia Brown - Jeff Cordell - Beth Cox - Andy Daniels - Dr. Nancy Glover - Glen Gregory - Tammy Hayes - Ted Wise





INSPECTION/DUPLICATION OF RECORDS REQUEST

Requestor Instructions: To make a request for copies of public records fill in sections 1-5, and sign and date section 9 at the time the request is made. Requestors who are retrieving the requested records from the office of the records custodian in person should not sign and date section 11 until the records are received. Requestors who are having the records emailed or mailed to him/her are not required to sign and date section 11 of the form.

Custodian Instructions: For requests to inspect, the records custodian is to fill in sections 1-6,8, and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the requestor inspects the records. For requests for copies or duplicates, the records custodian is to fill in sections 6-8 and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the records are retrieved by or delivered to the requestor.

Note: Tenn. Code Ann. § 10-7-503(a)(7)(A) provides that unless another provision in law specifically requires a written request, a request to inspect public records may not be required to be in writing nor can a fee be assessed for inspection of records.

(FRONT)

1. Name of requestor: _____
(Print or Type; Initials of requestor are required for copy requests)

2. (If required) Form of identification provided:

- Photo ID issued by governmental entity including requestor's address
 Other: _____

3. Requestor's address and contact information: _____

4. Request for: inspection/access copy/duplicate [previously inspected on _____ (date) or inspection waived]

5. Record(s) requested:

- a. Type of record: Minutes Annual Report Annual Financial Statements
 Budget Employee file Other
 b. Detailed Description of the record(s) including relevant date(s) and subject matter:

6. Request submitted to: _____
(Name of Governmental Entity, Office or Agency)

- a. Employee receiving request: _____
(Print or Type and Initial)
 b. Date and time request received: _____
 c. Response: Same day Other _____

7. Costs (if assessed):

- a. Number of pages to be copied: _____ Estimated
 b. Cost
 (1) per page letter or legal sized: \$ _____ (justification required if more than \$0.15) per black and white \$ _____ (justification required if more than \$0.50) per color;
 (2) per page other sized or other medium _____: \$ _____ (justification required)

Inspection/Duplication of Records Request
 Tenn. Code Ann. § 10-7-503(a)(7)(A)

Costs continued:

- c. Estimate of labor costs to produce the copy (for time exceeding 1 hour): _____
 Labor at \$ _____ /hour for _____ hour(s).
 Labor at \$ _____ /hour for _____ hour(s).
 Labor at \$ _____ /hour for _____ hour(s).
- d. Programming cost to extract information requested: _____
- e. Method of delivery and cost: _____ Estimated
 On-site pick-up U.S. Postal Service Other: _____
- f. Estimate of total cost to produce request: _____
- g. Estimate provided to requestor: in person by U.S.P.S. by phone Other: _____

8. Payment:

- a. Form of payment: Cash Check Other _____
- b. Amount of payment: _____
- c. Date of payment: _____
- d. Actual cost (and adjustment if prepaid): _____

9. _____
Signature of Requestor

Date Records Requested

10. _____
Signature of Records Custodian

Date of Receipt of Request

Delivery/Retrieval of Records

11. _____
Signature of Requestor

Date Records Retrieved

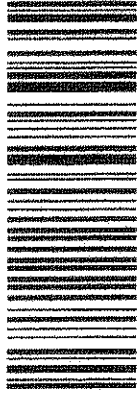
12. _____
Signature of Records Custodian

Date Records Retrieved/Delivered
Or

Date Records Inspected by the Requestor

CERTIFIED MAIL

SUMNER COUNTY BOARD OF EI
695 EAST MAIN STREET
GALLATIN, TN 37066-247



7006 0100 0003 9311 6977

Postage

05/17/2014

\$06.488

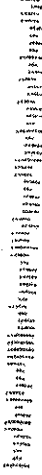


ZIP 37066

0101264548

9-18-14 MD

370660897320



Kirk Clements

From: Ken Jakes [ken.jakes@comcast.net]
Sent: Sunday, September 21, 2014 2:51 PM
To: Clemments, Kirk
Subject: Fwd: Request form filled out and submitted to Jeremy Johnson.
Attachments: RESPONSE TO JEREMY JOHNSON CERTIFIED LETTER.pdf

Kirk, place this in your records.

From: "Jakes, Ken" <ken.jakes@comcast.net>
To: "Jeremy johnson" <jeremy.johnson@sumnerschools.org>
Cc: "Jakes, Ken" <ken.jakes@comcast.net>
Sent: Sunday, September 21, 2014 2:46:02 PM
Subject: Request form filled out and submitted to Jeremy Johnson.

Mr. Jeremy Johnson, please review the three attached documents. I am responding to your letter sent by certified mail to me dated September 16, 2014. I could not help but notice you wasted \$ 6.48 in certified postage taking this revenue from the Sumner County Board of Education. I made my public record request, which you are responding to in this letter by email to you on September the 10, 2014. (PLEASE SEE ATTACHED EMAIL .)

I also made my public record request to inspect and review by phone and received your voice mail. I could get records from my cell phone provider to your number to document this statement but since you acknowledge that you received my request by voice mail there is no need of that step. You state in your letter " I received your voice mail asking for certain public records after I returned from my vacation on September 15, 2014 "

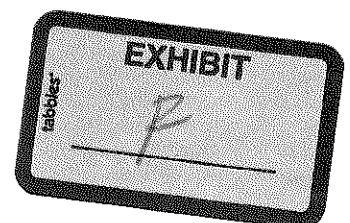
You sent me a records request form for me to fill out., As I am sure you have been made aware of TCA 10-7-503. The LAW does not require that I fill out a records request form to inspect and review public records. Only and until such time as I may request copies am I required to fill out a request form or be required to put in any form of writing.

None the less, I am putting in writing on your request form my public records request to inspect and review specific public records. (PLEASE REVIEW YOUR ATTACHED REQUEST FORM FILLED OUT AND ORIGINAL REQUEST MADE BY ME SENT TO YOUR EMAIL AND BY PHONE VOICE MAIL.. THE SAME RECORD REQUEST YOU STATE YOU RECEIVED.)

Please contact me when ready for inspection and review or within the seven day window Required by Law, with a production letter as to when my request should be ready for review

Thank you,

Ken Jakes cell 615-347-3379.,





INSPECTION/DUPLICATION OF RECORDS REQUEST

Requestor Instructions: To make a request for copies of public records fill in sections 1-5, and sign and date section 9 at the time the request is made. Requestors who are retrieving the requested records from the office of the records custodian in person should not sign and date section 11 until the records are received. Requestors who are having the records emailed or mailed to him/her are not required to sign and date section 11 of the form.

Custodian Instructions: For requests to inspect, the records custodian is to fill in sections 1-6,8, and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the requestor inspects the records. For requests for copies or duplicates, the records custodian is to fill in sections 6-8 and sign and date section 10 at the time the request is made. Section 12 should not be signed and dated until the records are retrieved by or delivered to the requestor.

Note: Tenn. Code Ann. § 10-7-503(a)(7)(A) provides that unless another provision in law specifically requires a written request, a request to inspect public records may not be required to be in writing nor can a fee be assessed for inspection of records.

(FRONT)

1. Name of requestor: Kenneth L. Jakes
(Print or Type; Initials of requestor are required for copy requests)

2. (If required) Form of identification provided:
 - Photo ID issued by governmental entity including requestor's address
 - Other: _____

3. Requestor's address and contact information: 3920 Clarksville Pike, Joelton TN. 37080, Cell-615-347-3379 Home 615-876-6220 Work 615-227-1993

4. Request for: inspection/access copy/duplicate [previously inspected on _____ (date) or inspection waived]

5. Record(s) requested:
 - a. Type of record: Minutes Annual Report Annual Financial Statements
 Budget Employee file Other
 - b. Detailed Description of the record(s) including relevant date(s) and subject matter:
Any and all documentation for Reimbursements for any and all Related expenses for travel for Dell Phillips from Jan 1, 2014 - Through Aug 31, 2014. (and by phone)

6. Request submitted to: Jeremy Johnson By Ken Jakes Email Wed. / Sept 10, 2014 / 3:00 PM
(Name of Governmental Entity, Office or Agency)
 - a. Employee receiving request: Emailed to Jeremy Johnson 9/21/14
(Print or Type and Initial)
 - b. Date and time request received: Emailed Received By Johnson Email Sept 10, 2014 3:00 PM
 - c. Response: Same day Other _____

7. Costs (if assessed):
 - a. Number of pages to be copied: _____ Estimated
 - b. Cost
 - (1) per page letter or legal sized: \$ _____ (justification required if more than \$0.15) per black and white \$ _____ (justification required if more than \$0.50) per color;
 - (2) per page other sized or other medium _____ : \$ _____ (justification required)

Inspection/Duplication of Records Request
Tenn. Code Ann. § 10-7-503(a)(7)(A)

Costs continued:

- c. Estimate of labor costs to produce the copy (for time exceeding 1 hour): _____
 Labor at \$ _____ /hour for _____ hour(s).
 Labor at \$ _____ /hour for _____ hour(s).
 Labor at \$ _____ /hour for _____ hour(s).
- d. Programming cost to extract information requested: _____
- e. Method of delivery and cost: _____ Estimated
 On-site pick-up U.S. Postal Service Other: _____
- f. Estimate of total cost to produce request: _____
- g. Estimate provided to requestor: in person by U.S.P.S. by phone Other: _____

8. Payment:

- a. Form of payment: Cash Check Other _____
- b. Amount of payment: _____
- c. Date of payment: _____
- d. Actual cost (and adjustment if prepaid): _____

9. *Kenneth J. Johnson*
 Signature of Requestor

<i>By Email Sept, 10, 2014</i>	<i>Emailed Request Form</i>
<i>By Phone Sept, 10, 2014</i>	<i>9/21/14</i>
Date Records Requested	

10. _____
 Signature of Records Custodian

 Date of Receipt of Request

Delivery/Retrieval of Records

11. _____
 Signature of Requestor

 Date Records Retrieved

12. _____
 Signature of Records Custodian

 Date Records Retrieved/Delivered
 Or

 Date Records Inspected by the Requestor



Sumner County Board of Education

Del R. Phillips III, Ph.D.

Director of Schools

695 East Main Street Gallatin, TN 37066-2472

Phone: (615) 451-5200 Fax: (615) 451-5216

September 30, 2014

Ken Jakes
5920 Clarksville Pike
Joelton, TN 37080

Dear Mr. Jakes:

I received your email attaching our public records request form and asking for certain public records on Monday, September 22, 2014.

As stated in my September 16, 2014 letter, the Board's policy requires citizens to make public records requests by appearing in person with a valid identification or via mail by completing the records request form. The Board's time period to respond to any public records request does not begin until we receive a request in accordance with this policy.

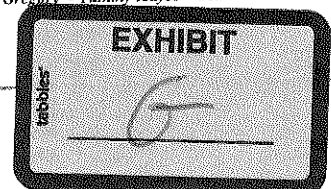
You may submit your request via U.S. Mail to 695 East Main Street, Gallatin, TN 37066 attention Director's Office or you may make your request in person. Our office hours are 8:00 a.m. to 4:30 p.m. Monday through Thursday, and from 8:00 a.m. to 4:00 p.m. on Friday.

Sincerely,

Jeremy Johnson
Board and Community Relations Supervisor

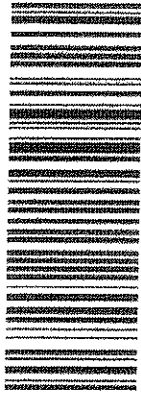
Board of Education Members

Alice Bachman - Tim Brewer - David A. Brown - Patricia Brown - Jeff Cordell - Beth Cox - Andy Daniels - Dr. Nancy Glover - Glen Gregory - Tammy Hayes - Ted Wise



SUMNER COUNTY BOARD OF EDUCATION
695 EAST MAIN STREET
GALLATIN, TN 37066-2472

CERTIFIED MAIL™



7013 2630 0000 4698 9576

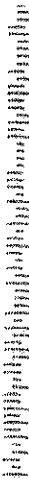
State: TN 37066
ZIP+4: 37066-2472
Postnet: 7013 2630 0000 4698 9576

\$06.48

Ken Jakes
5920 Clarksville, Pike
Joelton, TN 37080

10-1-14/22

37066697320



**IN THE CHANCERY COURT FOR SUMNER COUNTY
TENNESSEE AT GALLATIN**

KENNETH L. JAKES,)	
)	
Plaintiff,)	
)	
vs.)	NO. 2014-CV-53
)	
SUMNER COUNTY BOARD OF EDUCATION,)	
)	
Defendant.)	

**AFFIDAVIT OF KENNETH L. JAKES
IN RESPONSE TO DEFENDANT'S
STATEMENT OF UNDISPUTED FACTS**

I, Kenneth L. Jakes, having been duly sworn do attest as follows:

1. I am over age of 18 years of age and am competent to testify. I am the Plaintiff in this matter and I have had a chance to review the Defendant's Statement of Undisputed Material Facts in support of Motion for Summary Judgment and am not in a position to answer many of these statements as the Defendant has refused to respond to our discovery requests in this matter and I have not been able to depose Jeremy Johnson to explore the veracity and reasoning of the Affidavit filed in support of the Defendant's Motion for Summary Judgment. Thus, I will need for the Defendant to respond to our discovery request and possibly take the depositions of at least Jeremy Johnson and Del Philips.

2. I have reviewed the submissions by the Defendant with regard to the policies that it alleges are related to the public's request for records. I cannot find within these written policies any requirement that a request for inspection cannot be by electronic mail,

nor can I find any requirement that my request has to be in person or by U.S. Mail. However, pursuant to Mr. Johnson's Affidavit this is the policy of the Defendant. Thus, I cannot respond to many of the Statements of Undisputed Facts as I have not have a chance to review Defendant's completed responses to our discover, or cross examine Mr. Johnson with regard to his assertion of what the policy is and the reasoning for the policy. I will address each of the undisputed facts which I am unable to respond to without additional information.

3. Statement No. 6. "The Board has made the requested policy publically available through its online website since at least as early as August 12, 2011." I am unable to respond to this Statement of Undisputed Fact as I have been unable to depose Mr. Johnson or see any substantiation of when the public policy was made available online.

4. Statement No. 7. "At the time of Jakes' March 21, 2014 email, the requested record was already available online." I cannot respond to this statement as I have no information of when the policy was made available. I did subsequent to my request attempt to go online and find the public records request policy for the Sumner County Board of Education but it was very difficult and I was not able to find it until or after trying for forty five (45) minutes to an hour. Once I did locate the policy it was only the 1991 policy and not the most recently policy. (See Exhibit A). Nonetheless, I cannot say without further discovery when the policy was made public online.

5. Statement No. 10. " The March 31, 2014 email failed to conform to the Board's public records request policy." I am unable to respond to this statement because I have no idea of what the Board's public records request policy is. The written policies that I have reviewed state nothing about my request for inspection not being by email, nor does it state that I have to make a records request in person or via U.S. Mail. This policy was

articulated to me in an email from Mr. Johnson and he has now filed an affidavit asserting this is the policy, but this is not in writing in either of the policies submitted by the Defendant. Thus, I have no way of knowing what exactly the Board's public records policy is without further discovery.

6. Statement No. 12. "The Board provides two avenues for requesting public records, consistent with citizens' rights under TPRA : i) a citizen may request and inspect records without writing by appearing in person to make the request, ii) a citizen may request to inspect and/or receive copies of records by making a request in writing through the U.S. Postal Service." I am unable to respond to this statement because I have no idea what the Board's public records request policy is. The written policies that I have reviewed state nothing about my request for inspection not being by email, nor does it state that I have to make a records request in person or via U.S. Mail. This policy was articulated to me in an email from Mr. Johnson and he has now filed an affidavit asserting this is the policy, but this is not in writing in either of the policies submitted by the Defendant. Thus, I have no way of knowing what exactly the Board's public records policy is without further discovery.

7. Statement No. 13. "Specifically, the Board requires that any written request should be sent in the mail using the form developed by the Office of Open Records Council of the Comptrollers Office of the State of Tennessee and directed to the Director's Office under the supervision of the Supervisor of the Board of Community Relations for the Board". I am unable to respond to this statement because I have no idea what the Board's Public Records Request Policy is. The written policies that I have reviewed state nothing about my request for inspection not being by email, nor does it state that I have to make a records request in person or via U.S. Mail. This policy was articulated to me in an email

from Mr. Johnson and he has now filed an affidavit asserting this is the policy, but this is not in writing in either of the policies submitted by the Defendant. Thus, I have no way of knowing what exactly the Board's Public Records Policy is without further discovery.

8. Statement No. 14. "The Board's policy governing how both non-written and written request are received as crafted to help to achieve the Board's compliance with its obligations under the TPRA." I cannot respond to this statement as we have requested information related to the reasoning behind the Board's policy for not allowing requests to inspect by electronic mail. Further, I sincerely doubt that this is the reasoning behind not allowing electronic mail requests for inspection as it is not written anywhere and therefore, I believe it was crafted about the time that myself and others recently began requesting records regarding the expenditures of the teachers and others using tax payer's money. Not only has the Defendant refused to respond to my discovery specifically related to the reasoning, they have also failed to provide all the records requests that have been made a year prior to mine and how those were responded to. Without this I cannot know whether or not this is actually the reasoning for the policy as if the Board prior to my request did not require requests for inspection to be in person or by U.S. Mail, then the veracity of this reasoning naturally will be called into question.

9. Number 15. "Non written requests are required to be made in person in order to allow the Board a chance to inspect a request of photo identification or other form of identification acceptably to the Board." I cannot respond to this statement as we have requested information related to the reasoning behind the Board's policy for not allowing requests to inspect by electronic mail. Further, I sincerely doubt that this is the reasoning behind not allowing electronic mail requests for inspection as it is not written anywhere and therefore, I believe it was crafted about the time that myself and others recently began

requesting records regarding the expenditures of the teachers and others using tax payer's money. Not only has the Defendant refused to respond to my discovery specifically related to the reasoning, they have also failed to provide all the records requests that have been made a year prior to mine and how those were responded to. Without this I cannot know whether or not this is actually the reasoning for the policy as if the Board prior to my request did not require requests for inspection to be in person or by U.S. Mail, then the veracity of this reasoning naturally will be called into question.

10. Statement No. 16. "Among other reasons, the Board requires photo identification to accompany both non-written and written public records request to help ensure that the requestor is a citizen of the State of Tennessee." I cannot respond to this statement as we have requested information related to the reasoning behind the Board's policy for not allowing requests to inspect by electronic mail. Further, I sincerely doubt that this is the reasoning behind not allowing electronic mail requests for inspection as it is not written anywhere and therefore, I believe it was crafted about the time that myself and others recently began requesting records regarding the expenditures of the teachers and others using tax payer's money. Not only has the Defendant refused to respond to my discovery specifically related to the reasoning, they have also failed to provide all the records requests that have been made a year prior to mine and how those were responded to. Without this I cannot know whether or not this is actually the reasoning for the policy as if the Board prior to my request did not require requests for inspection to be in person or by U.S. Mail, then the veracity of this reasoning naturally will be called into question.

11. Statement No. 17. "The Board requires all written requests to be served through the U.S. postal service and addressed to a specific office - the Director's Office under the supervision of the Supervisor of Board and Community Relations for the Board."

I am unable to respond to this statement because I have no idea what the Board's Public Records Request Policy is. The written policies that I have reviewed state nothing about my requests for inspection not being by email, nor does it state that I have to make a records request in person or via U.S. Mail. This policy was articulated to me in an email from Mr. Johnson and he has now filed an Affidavit asserting this is the policy, but this is not in writing in either of the policies submitted by the Defendant. Thus, I have no way of knowing what exactly the Board's Public Records Policy is without further discovery.

12. Statement No. 18. "The Board does not permit written requests to be served via email. This policy helps to ensure that public records requests are not lost in spam filters; are not routed to an individual employee who may be on vacation, resigned from employment with the Board, or otherwise available; and are not otherwise subject to the uncertainties of digital communication." I am unable to respond to this statement because I have no idea what the Board's Public Records Request Policy is. The written policies that I have reviewed state nothing about my request for inspection not being by email, nor does it state that I have to make a records request in person or via U.S. Mail. Additionally, I cannot respond to this statement as we have requested information related to the reasoning behind the Board's policy for not allowing requests to inspect by electronic mail. Further, I sincerely doubt that this is the reasoning behind not allowing electronic mail requests for inspection as it is not written anywhere and therefore, I believe it was crafted about the time that myself and others recently began requesting records regarding the expenditures of the teachers and others using tax payer's money. Not only has the Defendant refused to respond to my discovery specifically related to the reasoning, they have also failed to provide all the records requests that have been made a year prior to mine and how those were responded to. Without this I cannot know whether or not this is

actually the reasoning for the policy as if the Board prior to my request did not require requests for inspection to be in person or by U.S. Mail, then the veracity of this reasoning naturally will be called into question.

13. Number 19. "The Board's practice is to keep a log of public records requests. The Board's policies with respect to both non-written and written requests help to ensure its ability to keep these logs accurate." I am unable to respond to this Statement of Undisputed Fact as this is the first knowledge that there is even a log of Public Records Request. In fact, we asked for information related to previous public records requests and it was cited in the Defendant's response specifically that it would be too burdensome to provide this information. However, now Mr. Johnson is asserting that the Defendant keeps a log of public records requests. Therefore, naturally the veracity of this statement is called into question and additional discovery is required to determine whether or not this statement is in fact true. With regard to the assertion in this statement what the Board's policy is with respect to both non-written and written requests, once again, given the fact that most of the policies asserted by Mr. Johnson are not in writing, additional discovery is required to explore the veracity of these statements.

14. Number 20. "Without an in-person appearance to inspect the records, the only way the Board could provide Jakes with the records, would be to make copies for him." While I can admit to this logical statement, additional discovery is required to determine why the Defendant finds it a relevant material fact that in person appearances are required to inspect records as I have never made a request for copies; I have only made a request to inspect.

FURTHER AFFIANT SAITH NOT.

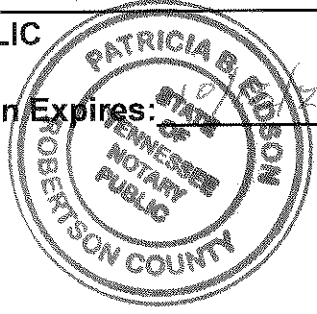
Kenneth L. Jakes
KENNETH L. JAKES

Sworn to and subscribed before me on

this the 31st day of Dec, 2014.

Patricia B. Edson
NOTARY PUBLIC

My commission Expires: 10/15/2015



Kirk Clements

From: Ken Jakes [ken.jakes@comcast.net]
Sent: Monday, March 31, 2014 7:59 PM
To: Clements, Kirk
Subject: It doesn't even use the words in person or US mail.

Kirk below is what I found
searching through the
maze of the Sumner
County Schools web site

Legal

Adopted
February 5, 1991

Last Revised
April 22, 1997

POLICY:

The Director of Schools shall maintain all school system records required by law, regulation and board policy. Any citizen of Tennessee, state official or other authorized person shall be permitted, upon written request, at a reasonable time, to inspect all records maintained by the school system unless otherwise prohibited by law, regulation or board policy. A person who has the right to inspect a record may request and receive copies of the documents subject to the payment of reasonable cost. (Reasonable costs shall include the materials used, the use of the equipment and the employee's time.)

The names of persons inspecting records and the date of inspection shall be recorded.

No records pertaining to individual students will be released for inspection by the public or any unauthorized persons.

The Director and/or his designee(s) shall retain and dispose of school system records in accordance with the following guidelines:

1. The Director and/or his designee(s) will determine if a particular record is of permanent or temporary value in accordance with regulations promulgated by County Public Records Commission and the Tennessee Institute for Public Services records manual;
2. Temporary value records which have been kept beyond the required time may be recommended to the Public Records Commission for destruction;
3. The records that the State Librarian and Archivist desire to preserve in their facilities will be transferred to the State Library and Archives. The temporary value records rejected by the State Library and Archives may be transferred to another institution or destroyed; and
4. Permanent records will be kept in some usable form. If the Director desires to destroy the original permanent record, these records must be reproduced by microfilming or some other permanent reproduction method. Permission to destroy any original permanent record after microfilming follows the same procedure noted above for temporary records.

