

Greater Clark County Schools

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November 4, 2009
Sent via overnight U.S. Mail

COPY

Mr. Andrew J. Kossack
Indiana's Public Access Counselor
Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, IN 46204-2745

Re: Formal Complaint 09-FC-243

Dear Mr. Kossack:

On behalf of Greater Clark County School Corporation's Board of School Trustees, Dr. Frank Collesano, CFO, and me, General Counsel, please accept this letter as the official response to the formal complaint identified above.

Mr. Christopher D. Quay, reporter for *The Courier-Journal* filed his first public records request dated August 12, 2009, requesting the following:

"I would like access to records that show or detail how a portion of Superintendent Daeschner's \$225,000 salary is paid. It was reported in the Courier-Journal in May that 'as much as one-third of Daeschner's salary will come from private contributions, an apparently unprecedented step.' We're trying to determine where or who the private contributions are coming from. Any help in finding that out would be appreciated."

See Attachment A

On August 17, 2009, Ms. Donna Mullins, Director of Human Resources for Greater Clark responded as follows:

"Per Sandy Lewis, General Counsel, Greater Clark does not have records on the fundraising plan for Dr. Daeschner's salary."

See Attachment B

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Mr. Christopher D. Quay, reporter for *The Courier-Journal* filed his second public records request dated September 21, 2009 stating the following:

"I am a reporter with the Courier-Journal newspaper and I would like some information regarding contributions that have been made to the foundation that will make up \$75,000, approximately one-third, of Superintendent Daeschner's salary. I would like access to records stating the names of the donors, the dates of the donation and how much each gave. I've spoken with Mr. Frank Collesano and he told me that as of last week \$18,000 had been provided in the form of contributions for Dr. Daeschner's salary. So the newspaper is aware that some money has been contributed at this point, we are just interested in finding out who has contributed and how much." **See Attachment C**

The response provided to Mr. Quay stated the following:

"Dear Mr. Quay:

In response to your public records request asking for records stating the names of donors, the dates of the donation, and how much was contributed to the Foundation toward Dr. Daeschner's salary, be advised that, to date, Greater Clark's Educational Foundation has not received any financial gifts or contributions that are specifically designated for Dr. Daeschner's salary.

Greater Clark County Schools did receive a check in the amount of \$18,000 from the Community Foundation of Southern Indiana which specifies that the money should be added to the Corporation's general fund to benefit the organization. At this time, Greater Clark intends to use those funds to offset Dr. Daeschner's salary. A copy of the letter is attached.

*Sincerely,
Frank Collesano, CFO"*

See Attachment D

Mr. Quay followed up with a new request for Public Information on September 30, 2009, after he received Dr. Collesano's response regarding the donation of \$18,000 from Community Foundation of Southern Indiana.

Here is his request:

"I would like the name(s) and address(es) of the donor(s) who contributed the \$18,000 sent to the Greater Clark County School's general fund through the Community Foundation of Southern Indiana, the money you said would be used to 'offset' Dr. Daeschner's salary, according to your response dated Sept. 28 to my previous request."

See Attachment E

Greater Clark responded to Mr. Quay in the following manner:

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“Mr. Quay:

Greater Clark received a donation from the Community Foundation of Southern Indiana in the amount of \$18,000.00 to be used for General Fund purposes. Greater Clark has no information regarding the names of contributors to the Community Foundation of Southern Indiana.”

See Attachment F

Not being satisfied with Greater Clark’s responses, Mr. Quay filed a complaint with your office. In his complaint he states, in part: *“The newspaper has learned through the open records request that someone not employed by GCCS is administering the account, but GCCS is not monitoring the person’s activity. We also feel that because the money is going to pay a “public” official then the identities of the contributors should be released to us.”*

Mr. Quay’s complaint asks you *“Should the records of the CFSI (Community Foundation of Southern Indiana) managed by a non-GCCS employee be viewed as public records and released to us?” emphasis added*

You forwarded the complaint to Greater Clark for response.

Response by Greater Clark County Schools

Greater Clark County Schools has an approved School Board policy providing that the school corporation *“...may accept gifts of money, real estate, furniture and equipment. All such gifts and donations must have school board approval. The gift is to be placed, used, or disposed of at the discretion of the Superintendent of Schools unless accepted by the school board for a stated purpose or use.”* Board Policy 1250

See Attachment G

There is nothing in Indiana law that prohibits a public school corporation from receiving funds from a private foundation.

On November 10, 2009, the Board of School Trustees will accept this gift from the Community Foundation of Southern Indiana at a regularly scheduled school board meeting. It will be accepted for the purpose stated in the letter from the Community Foundation dated September 11, 2009, which is to be *“added to the Corporation’s general fund to benefit the organization.”*

As further explanation, Dr. Stephen Daeschner began employment as the Superintendent of the Greater Clark County School Corporation as of July 1, 2009. His annual salary was established by contract at \$225,000 per year. One provision of his contract, which is attached for your

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review, states, in part: "The parties acknowledge and understand that the Superintendent's salary is a guaranteed sum that will be paid to the Superintendent. However, the parties agree that, inasmuch as the salary is greater than that paid to the previous Superintendent, it is fiscally responsible for the parties to undertake to raise funds through private donors, corporations, foundations and other entities in an amount equal to the difference between the previous Superintendent's salary and that salary set forth above."

See Attachment H

When Mr. Quay made his first request on or around August 12, 2009, Greater Clark had received no funds from any private contributor nor had officials with Greater Clark taken any steps to develop or approve any type of fundraising plan. The information provided to him in response was accurate.

Greater Clark took no steps to set up a contributions mechanism. It is Greater Clark's understanding that Mr. Dale L. Orem, local community member, was approached by various community members and agreed to undertake a private fundraising effort on behalf of Dr. Daeschner. Mr. Orem chose to utilize an existing private foundation in Clark County (Community Foundation of Southern Indiana) as the entity to receive any contributions made by community members. It is Greater Clark's understanding that the Community Foundation of Southern Indiana is a validly established 501(c)(3) Indiana foundation and has the ability to accept funds for specific purposes by individuals, businesses and other entities. Greater Clark County School Corporation does not have any power or control over the Community Foundation of Southern Indiana or the fund established by Mr. Orem.

As Mr. Quay was told, on or around September 28, 2009, that Greater Clark County Schools received a check in the amount of \$18,000.00 from the Community Foundation of Southern Indiana. The letter, a copy of which is enclosed as Attachment B stated, in part: *"Enclosed is the grant requested by Dale Orem the amount of \$18,000.00 from the Greater Clark County School Corporation Operations Pass Through Fund. This fund is held at the Community Foundation of Southern Indiana. The grant monies should be added to the Corporation's general fund to benefit the organization."*

Greater Clark did not receive a list of donors who made contributions to the fund at the Community Foundation and did not set up this account. Like Mr. Quay, Greater Clark does not have the ability to get the names of contributors to this fund. Any acknowledgment of the contribution to be issued by Greater Clark will be sent to the Community Foundation of Southern Indiana and not to any individual donors.

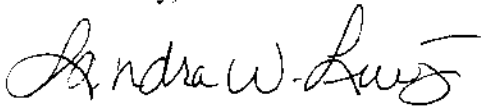
Dr. Frank Collesano, CFO, Greater Clark's Board of School Trustees and I are not in violation of the Public Records Act for the state of Indiana. We have provided Mr. Quay with all information that we have available or have the ability to obtain regarding this matter. The Community Foundation of Southern Indiana is not under Greater Clark's care, custody or control and the school corporation has no ability to access information regarding the donors making contributions to that foundation.

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I am respectfully requesting that you inform Mr. Quay that the responses provided by Greater Clark County Schools through Dr. Frank Collesano or me have complied with the provisions of Indiana law.

If you have questions or need additional information, please feel free to contact me.

Sincerely,

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

Sandra W. Lewis
General Counsel

Enclosures

xc: Dr. Frank Collesano, CFO
Dr. Stephen Daeschner, Superintendent of Schools