



July 20, 2022

University of Arizona
Office of Public Records
Attn. Kim Fassl
P.O. Box 210066
Tucson, AZ 85721-0066
publicrecords@email.arizona.edu

Subj: Public Records Request—Public Incident Reports

SENT VIA E-MAIL & U.S. MAIL

Dear Ms. Fassl:

The Goldwater Institute represents Christian Schneider, a senior reporter with *The College Fix*, who on August 9, 2021, submitted a public records request to your office seeking copies of complaints submitted on the University's Public Incident Report webpage from January 1, 2019 to July 31, 2021. Ex. 1. Mr. Schneider specified in his request that the names of students or other individuals may be redacted to preserve individual privacy.

Your office denied Mr. Schneider's request, claiming that these reports are barred from disclosure under the Family Educational Rights and Privacy Act ("FERPA"), and that they are also being withheld to protect the privacy of persons and the best interests of the state. Ex. 2.

These are insufficient bases for withholding the requested reports, and we are writing to reiterate that the records must be provided under Arizona law.

Arizona law presumes strongly in favor of the disclosure of public records. "[I]f a document falls within the scope of the public records statute, then the presumption favoring disclosure applies." *Griffis v. Pinal Cnty.*, 215 Ariz. 1, 5 ¶ 13 (2007). The public's right to inspect public records may only be curtailed if one of three narrow exceptions apply: (1) the records are made confidential by statute, (2) the records include privacy information, or (3) if disclosure of the records would harm the best interests of the state. *See Scottsdale Unified Sch. Dist. No. 48 v. KPNX Broad. Co.*, 191 Ariz. 297, 300 ¶ 9 (1998).

If a public body believes an exception applies, the burden is squarely on the public body to establish that exception. *See Mitchell v. Superior Court*, 142 Ariz. 332, 335 (1984) (the burden of demonstrating that some harm will result to the state in disclosure "is on the party that seeks non-

disclosure rather than on the party that seeks access”); *Cox Ariz. Publ’ns, Inc. v. Collins*, 175 Ariz. 11, 14 (1993) (same).

Regarding your contention that FERPA prevents disclosure of these requested records, courts have made clear that once identifying information has been redacted, the document ceases to be an “education record” for the purposes of FERPA, and must be produced if it is otherwise subject to the state’s open-records law, and “[n]othing in the FERPA would prevent the Universities from releasing properly redacted records.” *Bd. of Trs. v. Cut Bank Pioneer Press*, 160 P.3d 482, 487 ¶ 29 (Mont. 2007) *U.S. v. Miami Univ.*, 294 F.3d 797, 824 (6th Cir. 2002).

Further, Arizona courts have said that where there is a competing interest of confidentiality or privacy, deleting personal identifying information is a practical alternative to denying access, and a “[g]ood reason to deny access to part of a record is not necessarily good reason to deny access to all of it.” *KPNX-TV v. Superior Court*, 183 Ariz. 589, 594 (Ariz. Ct. App 1995).

Again, Mr. Schneider specifically asked that identifying information be redacted from the documents he requested. Thus, the University’s refusal to provide the documents even after removing this information is not legally tenable.

Moreover, the University provided responsive records to a nearly identical request in 2019. Ex. 3, 4. At that time, the University did not withhold records on the basis of FERPA, or by claiming that privacy interests or the best interest of the state outweighed the public’s right to access public information, or otherwise required withholding the documents despite redacting personal identifying information.

Therefore, we believe the University’s refusal to comply with Mr. Schneider’s public records request violates Arizona law. Please accept this letter as a renewed request for the records identified in Mr. Schneider’s August 9, 2021, request, pursuant to A.R.S. § 39-121 *et seq.*

If you believe these records may be withheld under any actual exception to the public records laws, please state the exception, your reasoning as to why it applies, and any other basis for withholding public information. Specifically, pursuant to A.R.S. § 39-121.01(D)(2), please provide “an index of records ... that have been withheld and the reasons the records ... have been withheld from the requesting person.”

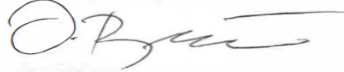
Please also advise the earliest date on which you anticipate releasing the records requested or providing a response.

Based on the initial denial of Mr. Schneider’s request, and the purported basis for that denial, we will treat delay in responding to this letter as a denial of Mr. Schneider’s right to access public records and will pursue our right to inspect these records in a special action filed in superior court pursuant to A.R.S. § 39-121.02.

Please note that public records statute calls for the award of attorney fees and costs if the party seeking records prevails.

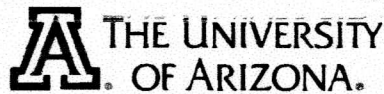
I look forward to working with you to quickly resolve this matter. Should you have any questions in the meantime, please do not hesitate to contact me.

Sincerely,



Jon Riches
Director of National Litigation
Scharf-Norton Center for Constitutional Litigation
at the Goldwater Institute

cc. Ms. Laura Todd Johnson, ltj@arizona.edu, OGC-Info@email.arizona.edu



Request for the Inspection of Public Record

Name: Christian Schneider Date: 8/9/21 Phone: (608) 4234-4122
Representing: The College Fix Fax: _____ Email: cschneider@thecollegefix.com
Mailing Address: 4421 Yuma Dr Madison, WI 53711

Public Records Requested for Inspection: *Please be as specific as possible.* Because of the diffuse nature of some University records, we cannot accept broad requests for "all records" or similar language. Making your request specific will also enable us to locate it as quickly as possible. (Continue on a separate sheet if necessary, or attach a letter with your request.)

I am requesting copies of all the complaints generated by the University of Arizona's "Incident Report Referral form," sponsored by the Bias Education and Support Team between January 1, 2019 and July 31 2021. Names of the complainant and the target of the report may be redacted.

GENERAL INFORMATION:

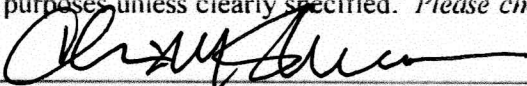
Requests for Inspection must be presented first to the Coordinator for Public Records, The University of Arizona, P.O. Box 210066, Tucson, Arizona, 85721-0066.

Please email the completed form to publicrecords@email.arizona.edu, or fax to (520) 621-9001, or mail your requests to the above address. For questions, call (520) 621-1986. This form and additional information are available at www.arizona.edu/publicrecords.

University records furnished for inspection may not be removed from the department where such records are permanently stored. Because the primary mission of the University is education, not record-keeping or document production, *it may take some time to research your request and locate the documentation.* Requests may take longer to process if redactions are needed or when records must be collected from multiple sources or archived files. Requests will be filled as promptly as circumstances permit, subject to time available during the regularly scheduled workday.

In accordance with A.R.S. §39-121.01(D)(1) the University will for charge for making copies of public records.

In accordance with A.R.S. §39-121.03, I certify that the copies of public records herein requested will not be used for commercial purposes unless clearly specified. *Please check here _____ if this request is for a commercial purpose.*

Signature: 

FOR USE BY THE COORDINATOR FOR PUBLIC RECORDS:

Routed to: _____ Date Received: _____ Date Completed: _____

Comments: _____

June 27, 2022

Via email only

Christian Schneider
The College Fix
4421 Yuma Drive
Madison, WI 53711
cschneider@thecollegefix.com

Re: Public Records Request No. 2021-0271, dated August 9, 2021

Dear Christian Schneider:

This letter responds to public records request no. 2021-0271 directed to the University of Arizona.

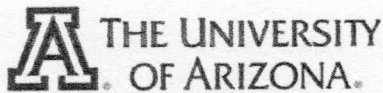
The records you have requested are not permissible for disclosure to third parties under the Family Educational Rights and Privacy Act. In addition, these records are being withheld from disclosure to protect the privacy of persons and best interests of the state. The production of these records could cause a chilling effect among future complainants and the University. Therefore, records, if any, that may be responsive to your request are withheld.

In providing this information to you, your public records request is fulfilled and closed in accordance with Arizona public records laws.

Sincerely,



Kim Fassl
Coordinator, Public Records



Request for the Inspection of Public Record

Name: Christian Schneider Date: 1-16-2019 Phone: (608) 347-0471
Representing: The College Fix Fax: _____ Email: CSchneider@thecollegefix.com
Mailing Address: 4421 Yuma Dr, Madison, WI 53711

Public Records Requested for Inspection: *Please be as specific as possible.* Because of the diffuse nature of some University records, we cannot accept broad requests for "all records" or similar language. Making your request specific will also enable us to locate it as quickly as possible. (Continue on a separate sheet if necessary, or attach a letter with your request.)

I am requesting all of the reports filed with the University of Arizona's Public Incident Report webpage between August 1 of 2018 and December 31 of 2018. (The link can be found on the Dean of Students' "Report a concern" page. Student names may be redacted. (See attached email.)

GENERAL INFORMATION:

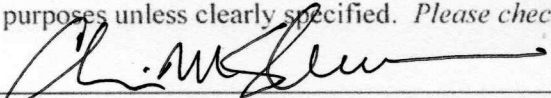
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Signature: 

FOR USE BY THE COORDINATOR FOR PUBLIC RECORDS:

Routed to: _____ Date Received: _____ Date Completed: _____

Comments: _____



Office of Public Records

P.O. Box 210066
Tucson, AZ 85721-0066
Tel: 520-621-1986
Fax: 520-621-9001
<http://www.arizona.edu/publicrecords>

January 31, 2019

Christian Schneider
The College Fix
4421 Yuma Dr.
Madison, WI 53711
Email: schneider@thecollegefix.com

Re: Public Records Request dated January 16, 2019

Dear Mr. Schneider:

This letter responds to your public records request dated January 16, 2019, directed to the University of Arizona, seeking "copies of all the complaints generated by the University of Arizona's Public Incident Report website between August 1, 2018 and December 31, 2018. The website used for filing these reports is:

https://arizona-advocate.symplicity.com/public_report/index.php/pid198226?

Attached are copies of the records responsive to your request.

In providing this information to you, your public records request set forth above is considered fulfilled and closed in accordance with Arizona public records laws.

Sincerely,

A handwritten signature in blue ink that reads 'Teri Bentson'.

Teri Bentson
Coordinator, Public Records



03754-2018 (Parent Case)



Possible Next Step:

[Reopen Incident](#)[Use "Other Actions" for additional options.](#)[Cancel](#)[Other Actions](#) ▾

INCIDENT

IR#	03754-2018
Departmental Process	Dean of Students Office
Incident Type	Consultation
Incident Status	Closed
Date/Time of Incident	October 23, 2018 12:00 am
Students Involved/Respondent(s)	[REDACTED]
Location of Incident	Other/Unions / Recreation / Student Services/Highland Market
Additional Info	Highland Market
Incident Description	Hi, I just wanted to report an incident that happened at Highland Market last Tuesday night. I paid for my things and walked out the door. As I started walking up the street, the security guard comes out and says, "Hey, you didn't pay for that!" I told him I did but dismissed me and continued to approach me. He grabs my arm as he tries to take away the items as he asks for the receipt. I pulled away and showed him and he apologized. I just want to know what precautions to take in the future if this were to happen again as this could have escalated quickly. I don't think the security was right in touching my arm because that could have been a trigger. I just felt profiled because I had to stand in line to pay for my stuff, and then he goes out of his way to come out of the store and accuse me of stealing. Thank you and I'd appreciate it if someone were to get back to me.
Student Name	[REDACTED]
Name of Reporting Party	Anonymous
Reporting Party Email	[REDACTED]@email.arizona.edu
Reporting Party Affiliation to University	Student
DEAN OF STUDENTS OFFICE	
Bias/Hate Type	Race

Incident Report Info

Assigned To: Richard Salazar
Created: November 15, 2018 8:29 pm
Modified: January 23, 2019 3:02 pm
By: [Richard Salazar](#)

Incident Report Flags [Edit Flags](#)

- ☐
- ☐ ACI workshop not completed
- ☒ BIAS
- ☐ BIT
- ☐ Converted to Care
- ☐ CSI-DO NOT DELETE FLAG
- ☐ INTERIM ACTION-SEE NOTES
- ☐ Loss of Recognition
- ☐ non student DO NOT DELETE FLAG
- ☐ RELEASE OF INFORMATION
- ☐ Res. Life Referral to DOS
- ☐ Residence Life Hold - Do Not Delete Flag
- ☐ TAMT
- ☐ TITLE IX
- ☐ TIX Investigation
- ☐

[Add](#)

Related Incidents

[03754-001-2018](#) Closed/No Violation



[REDACTED]

Current Student Information

Name [REDACTED] [✎](#)
Preferred First Name [REDACTED]
Student ID [REDACTED]
Email [REDACTED]
Location / Room # [REDACTED]

Meetings

No Meetings

Documents

POLICE/COURT INFORMATION

Reported By Student

Cancel

No Documents

[Add Documents](#)

Notes

Case Closure

[Add Notes](#)

03729-2018 (Parent Case)



Possible Next Step:

[Reopen Incident](#)[Use "Other Actions" for additional options.](#)[Cancel](#)[Other Actions](#) ▾

INCIDENT

IR# 03729-2018

Departmental Process Dean of Students Office

Incident Type Code of Conduct

Incident Status Closed

Date/Time of Incident October 31, 2018 12:00 am

Location of Incident On Campus

Additional Info Music Building

Incident Description UAPD reported an etching of a swastika on a fire panel at the music building to DOS.

Student Name na

Name of Reporting Party UAPD

Reporting Party Email [REDACTED]@email.arizona.edu

Reporting Party Affiliation to University Staff

DEAN OF STUDENTS OFFICE

Bias/Hate Type Religion

POLICE/COURT INFORMATION

Reported By Staff

[Cancel](#)

▾ Incident Report Info

Assigned To: Chrissy Lieberman

Created: November 14, 2018 3:16 pm

Modified: November 14, 2018 3:19 pm

By: [Chrissy Lieberman](#)

▾ Incident Report Flags [Edit Flags](#)

- ☐
- ☐ ACI workshop not completed
- ☒ BIAS
- ☐ BIT
- ☐ Converted to Care
- ☐ CSI-DO NOT DELETE FLAG
- ☐ INTERIM ACTION-SEE NOTES
- ☐ Loss of Recognition
- ☐ non student DO NOT DELETE FLAG
- ☐ RELEASE OF INFORMATION
- ☐ Res. Life Referral to DOS
- ☐ Residence Life Hold - Do Not Delete Flag
- ☐ TAMT
- ☐ TITLE IX
- ☐ TIX Investigation
- ☐

[Add](#)

▾ Related Incidents

[03729-001-2018](#) Closed/No Violation

No Respondent

▾ Current Student Information

No Student Found

▾ Meetings

No Meetings

▾ Documents

U1810310014.pdf

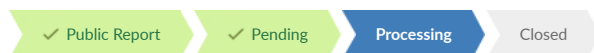
[Add Documents](#)

▾ Notes

No Notes

[Add Notes](#)

03650-2018 (Parent Case)



Use "Other Actions" for additional options.

This incident is in Processing. These are related incidents that need to be addressed:

- [03650-001-2018](#) (Pending Action)

[Edit](#)
[Cancel](#)
[Other Actions](#)

INCIDENT

IR#	03650-2018
Departmental Process	Dean of Students Office
Incident Type	Consultation
Incident Status	Closed
Date/Time of Incident	November 9, 2018 12:00 am
Location of Incident	On Campus
Additional Info	On kiosk near Engineering
Incident Description	<p>"I found it on the round posterboard on the opposite side of the street from you all but nearby mexican-american studies and that engineering building. A strategy that I considered was making a flier with just the logo and not the name of the group saying something like "If you see this logo take it down. There is no place for hate at UA." So as to crowd-source keeping them down without incidentally advertising for the group by releasing their name over like the Clery notices for instance. Alternatively though, myself and a handful of other people stay on the lookout for them and will continue to take them down ourselves. This group is more active in phoenix and has only recently began making forays into Tucson. The last time they came down and flied on campus they made a big deal of it on social media but this time seems more like the work of a local. My guess is that they now have at least one member that goes to school here or is in the immediate area. Although they profess themselves to be a "non-violent white-identitarian movement" more than one of their members has been associated with violence including their founder Nathan Domingo who attacked someone at the Unite the Right event in Charlottesville that he helped organize. Further, the person who drove his car into the group of protestors was also seen organizing with Identity Evropa earlier that day. I am a [REDACTED] and I study the alt-right and fascist movements more broadly, especially how they propagate over social media."</p> <p>"please do encourage them (UAPD) not to provide a bunch of free advertising to the group or accidentally drive traffic to their website by for example sending mass emails with the group's name in it or something like that. That all being said, I do think it's important that the student body and faculty stand united against neo-nazi, white-supremacist, alt-right, and neo-fascist movements and that looks like many different types of things to many different people."</p>

Student Name

Anonymous

Incident Report Info

Assigned To: Chrissy Lieberman
 Created: November 9, 2018 10:19 am
 Modified: November 9, 2018 10:21 am
 By: [Chrissy Lieberman](#)

Incident Report Flags [Edit Flags](#)

- ☐
- ☐ ACI workshop not completed
- ☒ BIAS
- ☐ BIT
- ☐ Converted to Care
- ☐ CSI-DO NOT DELETE FLAG
- ☐ INTERIM ACTION-SEE NOTES
- ☐ Loss of Recognition
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- ☐ RELEASE OF INFORMATION
- ☐ Res. Life Referral to DOS
- ☐ Residence Life Hold - Do Not Delete Flag
- ☐ TAMT
- ☐ TITLE IX
- ☐ TIX Investigation
- ☐

[Add](#)

Related Incidents

[03650-001-2018](#) Pending Action
 No Respondent

Current Student Information

No Student Found

Meetings

No Meetings
[Schedule New Meeting](#)

Documents

flyer.pdf
[Add Documents](#)

Notes

No Notes
[Add Notes](#)

Name of Reporting Party

anonymous

Reporting Party Email

@email.arizona.edu

Reporting Party Affiliation to University

Student

DEAN OF STUDENTS OFFICE

Bias/Hate Type

Religion

POLICE/COURT INFORMATION

Reported By

Staff

Edit

Cancel

