

February 13, 2024

VIA CERTIFIED MAIL AND EMAIL

Jane McCall
jmccall@rsu39.org
Superintendent, RSU 39
75 Glenn Street
Caribou, ME 04736

Jamie Selfridge
jselfridge@rsu39.org
Principal, Caribou High School
308 Sweden Street,
Caribou, ME 04736

RE: Request for Inspection and Copying of Public Records Pursuant to the Maine
Freedom of Access Act, 1 M.R.S. § 408-A

Dear Superintendent McCall and Principal Selfridge:

This is a request for inspection and copying of public records under 1 M.R.S. § 408-A submitted by the American Civil Liberties Union of Maine Foundation (“ACLU of Maine”). As detailed below, we request records in the possession of RSU 39 concerning the biometric tracking of students at Caribou High School through Identimetrics or any other biometric identification service provider.

A January 24, 2024 letter from Principal Selfridge announced that Caribou High School would be “introducing Identimetrics” to “assist with attendance and tardies entries.” Identimetrics touts its “Biometric Identification Management Platform,” which gathers and stores student biometric information including fingerprints. Identimetrics advertises that its biometric identification platform can be used for “attendance, food service, library & media center, staff time clock, bus, for emergency evacuation, sporting events, dances, even student elections. . .”¹

The ACLU of Maine works to defend Mainers’ privacy rights and civil liberties against the threat of biometric surveillance by corporations and governments. For example, in 2021, the ACLU of Maine supported the enactment of the country’s strongest statewide facial recognition law, prohibiting the use of facial recognition technology in most areas of government, including in public schools, and for surveillance purposes. The ACLU of Maine has serious questions about RSU 39’s decision to use Identimetrics to collect and store students’ biometric data, and

¹ See <https://www.identimetrics.net/>

the answers to those questions will have direct bearing on public discourse around an area of widespread concern to the people of Maine.

Specifically, we request:

1. All contract(s) between RSU 39 and Identimetrics;
2. All communications between RSU 39 and Identimetrics;
3. All communications to or from RSU 39 administrators, employees or school board members—including but not limited to emails, text messages, letters, memoranda, handwritten notes, social media posts, and any other electronic communications—concerning the decision to use Identimetrics to collect students’ biometric information;
4. All documents concerning any monetary payments or services to be provided by RSU 39 in connection with the implementation of the Identimetrics platform at Caribou High School;
5. All documents concerning any monetary payments or services to be provided to RSU 39 in connection with the implementation of the Identimetrics platform at Caribou High School;
6. Identimetrics’ Privacy Policies, including any policy governing security protections, collection, use, storage, retention, and sharing of student biometric information;
7. All RSU 39 policies governing security protections, collection, use, storage, retention, and sharing of student biometric information;
8. All communications to or from RSU 39 administrators, employees or school board members—including but not limited to emails, text messages, letters, memoranda, handwritten notes, social media posts, and any other electronic communications—concerning plans for the current and future use of student biometric information.
9. Documents showing the name of any other biometric identification service provider that has approached, or has been approached by, RSU 39, for the purpose of providing biometric identification services to the district or schools within the district.

Maine’s Freedom of Access Act (FOAA) must “be liberally construed and applied to promote its underlying purposes” of promoting openness and transparency in governance, and exceptions to the law are interpreted narrowly. 1 M.R.S. § 401. The law broadly defines the term “public records” to include:

any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, . . . and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business.

1 M.R.S. § 402(3). The term “public records” includes, but is not limited to, electronic data stored on computers and electronic communications such as e-mails and text messages. Information “received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business” includes,

but is not limited to, information stored on the home computers, phones, and other devices of government officials and employees.

Under FOAA, you are required to acknowledge this request within five working days. You are further required, within a reasonable time, to provide an estimate of the time frame for your response. 1 M.R.S. § 408-A(3). Failure to comply in good faith with the requirements of FOAA can result in substantial penalties. *See, e.g., Human Rights Defense Center v. MCCA Risk Pool*, (Super. Ct. No. 21-131) (ordering government entity to pay over \$130,000 in attorneys' fees and costs based on its bad faith failure to comply with FOAA request for records).

If you deny all or any part of this request, please provide written notice of the denial and the asserted basis for that denial within five working days of the receipt of the request, as required by law. 1 M.R.S. § 408-A(4). Please cite each specific FOAA exemption that you assert as a basis for your denial. To the extent that you deny this request on the basis of 16 M.R.S. § 804, please indicate which subsection of the statute is applicable to the withheld records.

Under 1 M.R.S. § 408-A(11)(B), ACLU of Maine is entitled to a waiver of any fees because release of the requested records is in the public interest. Release of the requested records is "likely to contribute significantly to public understanding of the operations of activities of government and is not primarily in the commercial interest of the requester." 1 M.R.S. § 408-A(11)(B). To the extent that fee waiver is not granted, please provide a cost estimate within a reasonable time as required by law. *See* 1 M.R.S. § 408-A(3), (9). If any records responsive to this request are stored electronically, please produce them in the medium in which they are stored. *See* 1 M.R.S. § 408-A(7).

Please provide the responsive records to:

Carol Garvan
ACLU of Maine
P.O. Box 7860
Portland, ME 04112
cgarvan@aclumaine.org

Thank you for your anticipated cooperation. We look forward to hearing from you as soon as possible and no later than five working days from your receipt of this request.

Respectfully,



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