



pennsylvania
OFFICE OF OPEN RECORDS

January 24, 2010

John E. Freund, III, Esquire
One West Broad Street
Suite 700
Bethlehem, PA 18018

RE: Petition for Reconsideration OOR Dkt. AP 2010-1176

Dear Mr. Freund

We are in receipt of your Request for Reconsideration received in connection with the office of Open Records Final Determination in *Thomas v. Intermediate Unit 20*, OOR Dkt. AP 2010-1176. We hereby grant your Request. However, the Petition was not filed until fifteen days after our Final Determination was issued and the Office of Open Records cannot issue a decision on reconsideration prior to the statutory period for judicial appeal (February 4, 2011). Therefore, we advise you that the time period for judicial appeal remains as stated in the Final Determination and is **not tolled**.

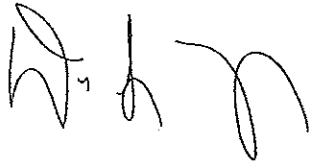
We note here that in the absence of applicable Office of Open Records interim regulations regarding petitions for reconsideration, this office will follow the procedures set forth in Pennsylvania General Rules of Administrative Practice and Procedure, 1 Pa. Code Section 35.241.

Requester, Thomas Benjamin, may file a response in the nature of an answer within 15 days of the issuance of this order granting reconsideration or by February 3, 2011.

This office will issue a determination responsive to this Petition for Reconsideration no later than 30 days from the mailing date of your petition (January 20, 2011) or by February 21, 2011.

Please contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dena Lefkowitz'. The signature is stylized with a large initial 'D' and a long, sweeping underline.

Dena Lefkowitz
Chief Counsel

cc: Terry Mutchler, Executive Director, Office of Open Records
Thomas Benjamin,

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JAN 24 2011
OFFICE OF OPEN RECORDS

**IN THE COMMONWEALTH OF PENNSYLVANIA
OFFICE OF OPEN RECORDS**

IN THE MATTER OF :
THOMAS BENJAMIN, :
Appellant, : **Docket No. AP 2010-1176**
 :
v. :
 : **A.O. J. Chadwick Schnee, Esquire**
COLONIAL INTERMEDIATE UNIT 20, :
Respondent :

PETITION FOR RECONSIDERATION

AND NOW, comes Colonial Intermediate Unit 20 (“CIU 20”), by and through their attorneys, King, Spry, Herman, Freund, & Faul, LLC, with the following Petition for Reconsideration of the above-captioned Final Determination:

1. On or before December 14, 2010, Colonial Intermediate Unit 20 (“CIU 20”) was experiencing problems with their email server, and for this reason, did not receive the request of Thomas Benjamin, Appellant, for records relating to the CIU 20 bus fleet until after the statutory period of “deemed denial” of the request for records.

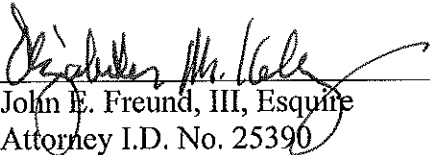
2. By letter dated December 9, 2010, the Office of Open Records informed CIU 20 about the request of Appellant Benjamin, for records consisting of the anti-idling policy and bus fleet information of CIU 20’s school bus fleet, and allowed seven (7) business days to provide a copy of the requested records to Mr. Benjamin.

3. On December 16, 2010, CIU 20, by and through its Assistant Executive Director, Dr. Mary Beth Bianco, provided a response to the Mr. Benjamin explaining the email server difficulties, and enclosing the requested records regarding the bus fleet. See records attached as Exhibit 1.

4. On December 16, 2010, Dr. Bianco sent the email with the attached records to Mr. Benjamin, at his email: benjamit@lafayette.edu
5. On December 16, 2010, Dr. Bianco copied the email with the attached records to Appeals Officer Schnee, at his email: jschnee@state.pa.us
6. On December 16, 2010, Dr. Bianco received an electronic “read receipt” from Appeals Officer Schnee.
7. Thereafter, CIU 20 did not hear or receive any communication from the Appellant, Mr. Benjamin, to indicate that he did not receive the requested records.
8. Thereafter, on January 5, 2011, Appeals Officer Schnee issued a Final Determination in which he determined that CIU 20 did not comply with the Right to Know Law by providing the requested records.
9. Because the requested records were in fact provided to the Requester, Mr. Benjamin, in a timely manner as directed by the Office of Open Records in its letter dated December 9, 2010, and because it appears that the email copied to Appeals Officer Schnee may have been overlooked due to a clerical error, the Final Determination was issued in error because the requested records were in fact provided on December 16, 2010, approximately three weeks before the Final Determination was issued on January 5, 2011.

WHEREFORE, Colonial Intermediate Unit 20 respectfully requests that the Final Determination issued on January 5, 2011 be withdrawn or rescinded, and an order entered in its place finding that the Appeal was made moot by CIU 20's provision of the requested records to the Requester, or in the alternative, that CIU 20 was in compliance with the Right to Know Law.

RESPECTFULLY SUBMITTED,
KING, SPRY, HERMAN, FREUND & FAUL, LLC,



John E. Freund, III, Esquire
Attorney I.D. No. 25390
Elizabeth M. Kelly, Esquire
Attorney I.D. No. 75167
One West Broad Street, Suite 700
Bethlehem, PA 18018
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jef@kingspry.com

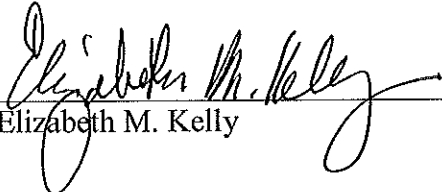
January 20, 2011

F:\Users\KingSpry Clients\C\COLONIAL IU 20\RIGHT TO KNOW REQUESTS\Petition for Reconsideration.Bus fleet records.01.20.2011.doc

CERTIFICATE OF SERVICE

I hereby certify that I have on this 20th day of January, 2011, served a true and correct copy of the foregoing Petition for Reconsideration and Attached Records upon the following Requester by email and by United States Mail, First Class:

Thomas Benjamin
Farinon Center Box 9486
111 Quad Drive
Easton, PA 18042
benjamit@lafayette.edu


Elizabeth M. Kelly

January 20, 2011



COLONIAL INTERMEDIATE UNIT 20

A Regional Service Agency

6 Danforth Drive
Easton, PA 18045-7899

Telephone (610) 252-5550 • FAX (610) 252-5740
Business Office FAX (610) 515-6524
Special Programs FAX (610) 559-7103
TDD/TYY Hearing Impaired (610) 252-3786

SCHOOL BUS/VEHICLE IDLING POLICY

Colonial Intermediate Unit 20 shall eliminate all unnecessary idling by school buses and school vehicles, thereby reducing exposure of school children, staff and the community to exhaust fumes and to reduce consumption of transportation fuels.

Exhaust gases pose a health risk to children, bus drivers and the general community. Unnecessary idling increases exposure to exhaust gases, wastes financial resources increasing the operating expenses of the Intermediate Unit and ultimately increases the demand for petroleum imports.

This policy applies to the operation of Colonial Intermediate Unit 20 owned vehicles.

The Board establishes that the Intermediate Unit shall enforce this policy through administrative directives to all employees and through conditions of contracts for transportation service providers.

The Assistant Executive Director shall direct the Coordinator of Transportation to annually notify staff and contractors of the provisions of this Policy.

The Coordinator of Transportation shall be responsible for enforcement of the Policy, shall be responsible to coordinate communications between Colonial Intermediate Unit and drivers and shall report operations to the Assistant Executive Director.

Upon arrival at schools and school loading zones, drivers will turn off engines and not restart until time to depart. Should weather conditions make idling a vehicle necessary, idling will be minimized by running the vehicle not more than five (5) minutes in any fifteen (15) minute time span. Note: while waiting in school loading zones, drivers will leave the ignition on "accessory" to allow radio communications.

Bus drivers must plan to minimize pre-trip warm-up idling to the manufacturer's recommended three (3) to five (5) minutes above forty (40) degrees F and not more than fifteen (15) minutes below this temperature.

Bus drivers must not idle a bus while waiting for students on field trips, athletic events, or any trips off school property.

Service and delivery vehicles shall not idle in school zones or within one hundred (100) feet of any school building. In instances that idling is necessary to facilitate delivery or to perform services, these activities shall be limited to a minimum.

Cold Weather Provisions

When outside temperatures are between forty (40) degrees F and minus five (-05) degrees F, idling practices will follow the guidelines in the policy not to exceed five (5) minutes in any fifteen (15) minute time span.

When outside temperatures are below minus five (-05) degrees F, there is no restriction on idling to provide for heating the vehicle.

Hot Weather Provisions

When outside temperatures warrant the use of Air Conditioning (A/C) no IU bus is to idle with the A/C on more than five (5) minutes within a fifteen (15) minute time span. This is to conserve fuel, limit fumes from the exhaust and lessen the wear on the engine of the vehicle.

Revolutionary Thinking . . . Makes a Difference

Exhibit 1

**Colonial Intermediate Unit 20 VEHICLE MILEAGE
2009-2010**

BUS #	YEAR	MAKE	MODEL	Beginning Miles 09-10	Total Bus Miles	09-10 Miles
1	2009	Chev	SB	153	16023	15870
2	2010	Ford	SV	750	13300	12550
3	2010	Ford	SV	750	15649	14899
4	2010	Ford	SV	750	13731	12981
5	2010	Ford	SV	750	14856	14106
6	2010	Ford	SV	750	10175	9425
7	2010	Ford	SV	750	12531	11781
8	2009	Chev	SB	160	Not available	NA
9	2010	Chev	SB	435	Not available	NA
10	2010	Chev	SB	440	Not available	NA
11	2010	Chev	SB	435	Not available	NA
12	2010	Chev	SB	444	Not available	NA
13	2010	Chev	SB	681	Not available	NA
14	2010	Chev	SB	701	Not available	NA
15	2010	Chev	SB	692	Not available	NA
16	1995	GMC	SV	205179	211663	6484
19	1995	GMC	SV	213313	227250	13937
24	1996	Chev	SV	255566	265681	10115
34	1997	Dodge	SV	197014	211349	14335
37	1997	Chev	SB	283071	312353	29282
39	1997	Chev	SB	232328	259758	27430
41	1999	Chev	SB	234054	272298	38244
42	1999	Chev	SB	216112	248290	32178
43	1999	Chev	SB	216112	237806	21694
44	1999	International	SB	237428	256851	19423
45	1999	Ford	SB	203921	221733	17812
49	2001	Chev	SB	239306	260196	20890
50	2001	Chev	SB	302996	324456	21460
52	2001	International	SB	235147	257764	22617
53	2001	International	SB	262295	283859	21564
54	2001	Chev	SB	202951	234891	31940
55	2001	Chev	SB	154563	169294	14731
56	2001	Chev	SB	167985	178915	10930
57	2001	Chev	SB	210570	223150	12580
58	2001	GMC	SB	79501	95178	15677
59	2001	Ford	SB	176282	197577	21295
60	2001	Chev	SB	190612	214475	23863
61	2001	Chev	SB	161206	184256	23050
62	2001	Chev	SB	200881	217146	16265
65	2001	Chev	SB	167909	192122	24213
68	2002	Chev	SB	185265	200914	15649
69	2003	Chev	SB	156550	178300	21750
70	2003	Chev	SB	138628	156734	18106
71	2002	Chev	SB	166596	183049	16453

**Colonial Intermediate Unit 20 VEHICLE MILEAGE
2009-2010**

BUS #	YEAR	MAKE	MODEL	Beginning Miles 09-10	Total Bus Miles	09-10 Miles
72	2002	Chev	SB	181570	198659	17089
73	2002	Chev	SB	150099	184532	34433
74	2002	Chev	SB	138577	160322	21745
75	2002	Chev	SB	190032	215386	25354
76	2002	Chev	SB	163785	190848	27063
79	2003	Ford	SV	117206	138140	20934
80	2003	Ford	SV	158264	182268	24004
82	2002	Chev	SB	171864	196992	25128
100	2004	International	SB	174152	190823	16671
101	2004	International	SB	132329	147851	15522
102	2003	Ford	SB	155798	176486	20688
103	2001	Freightliner	SB	28483	37432	8949
104	2003	Ford	SB	78006	93660	15654
105	2003	Ford	SB	149429	178832	29403
106	2003	Ford	SB	117241	196320	79079
107	2005	Bluebird	SB	159177	181730	22553
108	2005	Bluebird	SB	130010	151310	21300
114	2004	GMC	SB	173930	198333	24403
115	2004	Chev	SB	174672	198156	23484
116	2005	Chev	SB	116154	141027	24873
117	2005	Chev	SB	91514	119629	28115
118	2005	Ford	SB	117410	137993	20583
119	2005	Ford	SB	84929	110964	26035
120	2005	Ford	SB	101973	135810	33837
123	2003	International	SB	129789	163787	33998
124	2006	Chev	SB	98363	136465	38102
125	2007	Bluebird	SB	104184	125344	21160
126	2007	Bluebird	SB	78954	101315	22361
127	2007	Bluebird	SB	108447	125275	16828
128	2007	Bluebird	SB	94506	130930	36424
129	2007	Bluebird	SB	42260	63815	21555
130	2008	Chev	SB	38381	55776	17395
131	2008	Chev	SB	42936	51948	9012
132	2009	Bluebird	SB	21204	39127	17923
133	2009	Bluebird	SB	28419	48795	20376
134	2009	Freightliner	SB	13441	48257	34816
135	2009	Freightliner	SB	7200	29749	22549
136	2009	Freightliner	SB	9062	32880	23818
				TOTAL MILEAGE		1618795

New for 2010-2011

revised, 12/13/2010