

## Citizens' Resource Guide: A Possible Legal Strategy when Districts Refuse to Supply Information

*There may be times when parents' efforts to effect positive change – by asking questions about their district's technology policies and practices – are stopped at the front gate, with the district refusing to even share basic information. Despite this stonewalling, parents need **not** stop organizing. In fact, though the work may be arduous, there are tools parents can use to insist on full transparency, and potentially get a poorly conceived program suspended. This document, pursued by activists in the Austin, Texas area, describes their attempt to use the Texas Public Information Act to gain access to records about the district's use of technology. These activists were concerned about children being exposed to inappropriate content, including pornographic and violent images. A similar strategy could be employed by parents concerned about marketing in educational materials, platforms that compromise students' privacy, or simply platforms or materials that encourage screen time without sufficient proof that they will effectively aid in education.*

### Factual Background

The Eanes (TX) Independent School District had a 1:1 iPad program for all students, K-12. A 6-year-old viewed pornography on his school mandated iPad in class for two weeks before a teacher was alerted and notified the parents. Subsequent discussions among parents and the administration showed that the 1:1 program was implemented recklessly without apparent regard for applicable privacy laws or compliance with the governing terms of service. Further, this was far from the first incident of a student viewing explicit material on a school-mandated device: these problems were swept under the rug for years, and included young people being exposed to extremely violent videos, the exchange of sexual messages between minors and adults, and all manner of bullying and cheating, all on school-issued devices, either at home or at school.

### The Texas Public Information Act and equivalent laws in your state

Every state has laws designed to allow members of the public to access public information, including from public school districts. (These laws may have other names in other jurisdictions, and are sometimes colloquially known as Freedom of Information Act or FOIA laws. They are referred to generically as “public information laws” in this guide.) Texas Public Information Act summarizes the reasons for these laws as follows:

*Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of*

*the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.*

Texas Public Information Act, Section 552 of the Government Code

Acts of your local public school district qualify as “official acts of public officials and employees,” and it is your right as a member of the public to know about them.

Please note, however, that public information laws vary from state to state, so **be sure to familiarize yourself with the laws in your state**. It is also important to review any guidance prepared by your state attorney general or other body charged with enforcing the public information laws.

Here are links to freedom of information laws by [state](#). Here is a direct link to [Texas's Public Information Act \(PIA\)](#), and the [Attorney General's PIA Handbook](#). There are likely to be similar resources for you to use in your state. **Please use the provided materials as a guide, and only copy and paste verbatim where consistent with your state's laws and the facts of your situation.**

Using the state of Texas as an example, this short guide illustrates how to use public information laws to get information from your public school district about their use of technology in the classroom.

## Strategy

The strategy has two parts: a “TOS (Terms of Service) Request” part, intended to effectuate immediate change for the upcoming school year, and a “Show the Program’s Worth” part, which aims to uncover all deliberations and communication related to the introduction of the program, and might lay the groundwork for a future lawsuit.

- We as parents are entitled to information about any technology that is introduced into our children’s classrooms that will enable us to evaluate its safety and merits.
- We need full disclosure and discussion about the risks and potential benefits of the technology prior to its institution. There should be no rush to implement technology, then ad hoc reacting to the problems.
- It is unacceptable to shift an even greater burden to teachers to ensure safe use.
- Until the administration gets up to speed and can provide us with this information, we insist that the District suspend the 1:1 program (or use of a particular platform or app, etc.).

- If, after a thorough and transparent review process, the technologies are found to have benefits worthy of the risks, a technology program can be rebuilt with rigorous training and full transparency going forward.

**TOS Request.** The goal here is to utilize your state public information law to request the information to which you are entitled about which digital services your children are using, insist that your district abide by the providers' own terms of service, and withhold your consent where you can. No school district should be able to override a parent's explicitly withheld consent.

This may create a lot of work for the administration in collecting and reviewing terms of service for many apps installed on their platforms. In a responsibly administered program, providers' terms of service would already be collected, vetted, and made publicly available on districts' websites. But since many districts may have neglected to collate this information ahead of time, it may be hard for them to collect and supply this information.

If the district argues that it is too burdensome for it to identify the terms of service for each app, website, and service used on its device, this is all the more reason to suspend the program until the district gets a better grasp.

**Show the Program's Worth.** This second part is concerned with forcing the district to prove its claims about the efficacy of its 1:1 program or whatever edtech you are seeking more information about. You can request any presentations or research shared by edtech vendors with your school. You can also request communications between the vendor and school officials or between school officials when discussing the technology or technologies you are seeking information about, as well as emails between school officials when they were considering whether to adopt the technology. You might also request any evaluations concerning the effectiveness of the technology in meeting specific learning objectives. If your school is responsive, the documents they provide may bolster your arguments for eliminating or reducing a particular technology's use.

The Eanes parents' request can be found [here](#). Please note that this request consisted of hundreds of questions: the parents made the point in an attached letter that if the program was being administered in a responsible way, the abundant information they requested would be readily at hand and easy to provide. However, asking for that much increases the odds both that you will anger your district and that they will stonewall, so more targeted requests may be more effective.

**Some Thoughts about Tactics:** Filing a public information request may engender an adversarial, if not hostile response from a school district. For that reason, parents are encouraged to talk through the ramifications of what is likely to be seen as an escalation by the school district. While school districts have a legal obligation to respond, and there may be criminal penalties for failing to respond, your district may be unused to responding to such

requests and may fail to meet its legal obligations. It is important to remain diligent, and remember: you have a right to this information!

If you decide to move forward with making requests, the following will improve your chances of obtaining the information you seek.

- Seek out partners – other parents, lawmakers, school board members, school administrators, and/or teachers who share concerns about the issues at stake.
- Cultivate local reporters to maximize the public impact of your request.
- If you have a parent group organized around screens in schools in your community, share the requests with those parents after they've been served on the board.
- Since a lawsuit may eventually be required, if you have connections with a local lawyer or firm that might be willing to represent you – *ideally pro bono* – identify them early on.
- Most states have a hotline for resolving disputes over public information requests: use it until you get the records you're entitled to.
- States may impose a criminal penalty on public officials that fail to adequately respond to public information act requests. You may use it to get the appropriate law enforcement authorities involved if you are being stonewalled.

It will be important to set certain expectations. Expect that your administration may be defensive and less than forthcoming, despite their legal obligation to give you the requested information.

And expect that your administration will attempt to shift the costs of responding from them to you, including, most likely, the cost of its employees' time. A common tactic to avoid responding to a public information request is to demand the requester pay a very large fee up front. (State laws about whether and how much a school district can charge to respond to a public information act request vary.) That this is a transparently abusive tactic that goes against the spirit and letter of public information laws does not mean that it's rarely used.

For parents who are frustrated by their school district's pattern of concealing information that they have a right to know, public information requests can be an excellent tool. As the old saying goes, knowledge is power!