

FIRE v. Tarleton State University,

**Exhibit A to
Declaration of Lindsie Rank**



OPEN RECORDS PORTAL

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FAQs

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Request / Incident Summary

Request Type:

Public Information Records

Contact E-Mail:

Lindsie.rank@thefire.org

Reference No:

F002355-100521

Status:

Information Released

UPLOAD DATE



Files:	11/05/2021	Redacted_09.20.21_M_Landis_Personnel_File.pdf
	11/05/2021	CJACOBS_from_Gluckman_to_Jacobs_08.17.2021_1.pdf
	11/05/2021	CHOWARD_from_Howard_to_Gluckman_08.13.2021_3.pdf
	11/05/2021	CHOWARD_from_Howard_to_Gluckman_08.10.2021_6.pdf
	11/05/2021	CHOWARD_from_Gearhart_to_group_08.18.2021_1.pdf
	11/05/2021	09.17.21_M_Landis_Separation_Agreement.pdf

Additional Information

Describe in detail the Record(s) Requested:

To whom it may concern: This is a request for records pursuant to the Texas Public Information Act (Gov't Code § 552.001, et seq.). This request seeks records related to the Tarleton State University's involvement in the operations of Texan News Service. RECORDS REQUESTED I request the following records: *All emails and other communications sent or received by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuiston, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." *All notes, memoranda, reports, and other records generated or held by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuiston, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), dated between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." *The personnel file for Michael Landis. *Any record reflecting any disciplinary records, investigation report (including the investigation report issued on or about February 26, 2018, as well as the March 9, 2018, request for clarification made by Dr. Dwayne Snider, and the March 20, 2018, final investigation report), or any agreement concerning Michael Landis. Please note that this request does not seek a search of records held by student publications, including the Texan News Service. These requests should in no way be construed to include a review or search of email accounts, websites, or other forms of data or document retention which are controlled by the Texas News Service or other student media, students, alumni, or faculty members, nor by governmental or advisory bodies controlled by the same. Any search should be limited to documents held by the administration and/or its staff members. Fee waiver request: This request is made on behalf of the Foundation for Individual Rights in Education, a nonprofit and nonpartisan organization that works to preserve civil liberties on college campuses. We request that Tarleton State University waive any fees or costs associated with this request. This request concerns a matter of public interest, namely the First Amendment rights of student media at public universities. The public interest would be well-served by granting a fee waiver. The request is not being sought for a commercial purpose, but is instead sought by a nonprofit organization with the intent of providing the public with information concerning the conduct of government actors as that conduct pertains to civil liberties in higher education. FIRE has the means to disseminate the information sought to the public through its website, where it regularly publishes news and studies concerning government affairs. Further, pursuant to Gov't Code § 552.275 (l), FIRE may not be required to pay costs for public records requests. Further, FIRE qualifies under Gov't Code § 552.275(j)(1), as FIRE's website is a news medium engaged in the dissemination of news and information to the general public. If a fee waiver is not granted, please apprise me if the estimated costs will exceed \$5.00. Please also provide a W-9 form. Production of records: If possible, I request that responsive records be produced in an electronic format, preferably by email. If it is necessary to send records by mail, my address is: Foundation for Individual Rights in Education Attn: Lindsie Rank 510 Walnut Street Suite 1250 Philadelphia, PA 19106 Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs. Appeal

information: If you deny any portion, or all, of this request, please provide me with a written explanation of the reason(s) for your denial, including a citation to each specific statutory exemption you believe justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If you conclude that portions of the records that I request are exempt from disclosure, please release the remainder of such records for inspection and copying, redacting only the portion or portions that you claim are exempt. For any exemptions, please note whether they are discretionary and, if so, the basis for refusing to exercise discretion in favor of granting access.

Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek.

Preferred Method to Receive Records:	Electronic via Records Center
Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on information you receive?:	YES
Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on information you receive?:	NO

Save

New Message

Cancel

Messages 6

Print Messages (PDF)

On 11/5/2021 9:07:51 AM, Texas A&M University Public Records Support wrote:

Click Here to View Entire Message

> On 11/2/2021 4:31:05 PM, Texas A&M University Public Records Support wrote:

> On 10/27/2021 4:56:03 PM, Texas A&M University Public Records Support wrote:

> On 10/19/2021 10:13:58 AM, Texas A&M University Public Records Support wrote:

> On 10/6/2021 10:24:12 AM, Lindsie Rank wrote:

> On 10/5/2021 6:06:27 PM, Lindsie Rank wrote:

FIRE v. Tarleton State University,

**Exhibit B to
Declaration of Lindsie Rank**



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	11/05/2021	CHOWARD_from_Howard_to_Gluckman_08.10.2021_6.pdf
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To whom it may concern: This is a request for records pursuant to the Texas Public Information Act (Gov't Code § 552.001, et seq.). This request seeks records related to a demand by attorney Diana R. Warshow that the Texas News Service remove a list of articles from its website. RECORDS REQUESTED I request the following records: *All emails and other communications sent or received by university officials pertaining to any demand, request, or other correspondence from attorney Diana R. Warshow on behalf of her client Michael Landis. This includes, but it is not limited to, any correspondence concerning the Texas News Service. *All notes, memoranda, reports, and other records generated or held by university officials in connection with the aforementioned demand, request, or correspondence. *All notes, memoranda, reports, emails, or other records generated as a result of the request for comment from Nell Gluckman in August 2021 relating to Michael Landis or the Texas News Service. Please note that this request does not seek a search of records held by student publications, including the Texas News Service. These requests should in no way be construed to include a review or search of email accounts, websites, or other forms of data or document retention which are controlled by the Texas News Service or other student media, students, alumni, or faculty members, nor by governmental or advisory bodies controlled by the same. Any search should be limited to documents held by the administration and/or its staff members. Fee waiver request: This request is made on behalf of the Foundation for Individual Rights in Education, a nonprofit and nonpartisan organization that works to preserve civil liberties on college campuses. We request that Tarleton State University waive any fees or costs associated with this request. This request concerns a matter of public interest, namely the First Amendment rights of student media at public universities. The public interest would be well-served by granting a fee waiver. The request is not being sought for a commercial purpose, but is instead sought by a nonprofit organization with the intent of providing the public with information concerning the conduct of government actors as that conduct pertains to civil liberties in higher education. FIRE has the means to disseminate the information sought to the public through its website, where it regularly publishes news and studies concerning government affairs. Further, pursuant to Gov't Code § 552.275 (l), FIRE may not be required to pay costs for public records requests. Further, FIRE qualifies under Gov't Code § 552.275(j)(1), as FIRE's website is a news medium engaged in the dissemination of news and information to the general public. If a fee waiver is not granted, please apprise me if the estimated costs will exceed \$5.00. Please also provide a W-9 form. Production of records: If possible, I request that responsive records be produced in an electronic format, preferably by email. If it is necessary to send records by mail, my address is: Foundation for Individual Rights in Education Attn: Lindsie Rank 510 Walnut Street Suite 1250 Philadelphia, PA 19106 Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs. Appeal information: If you deny any portion, or all, of this request, please provide me with a written explanation of the reason(s) for your denial, including a citation to each specific statutory exemption you believe justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If you conclude that portions of the records that I request are exempt from disclosure, please release the remainder of such records for inspection and copying, redacting only the portion or portions that you claim are exempt. For any exemptions, please note whether they are discretionary and, if so, the basis for refusing to exercise discretion in favor of granting access. Request for Privilege Log: If any otherwise responsive documents are withheld on the basis that they are privileged or fall within a statutory

exemption, please provide a privilege log setting forth (1) the subject matter of the document; (2) the person(s) who sent and received the document; (3) the date the document was created or sent; and (4) the basis on which Tarleton State University contends it is entitled to withhold the document from production. We're hopeful that Tarleton State University will provide a timely and complete response. If any part of this request is vague or ambiguous, or if we could otherwise be of assistance in interpreting or narrowing this request, please do not hesitate to contact me by phone or email.

Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek.

Preferred Method to Receive Records: Electronic via Records Center

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Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on information you receive?: NO

Save New Message Cancel

Messages 6 Print Messages (PDF)

- On 11/5/2021 9:26:04 AM, Texas A&M University Public Records Support wrote:
[Click Here to View Entire Message](#)
- On 11/2/2021 4:35:15 PM, Texas A&M University Public Records Support wrote:
- On 10/27/2021 4:52:17 PM, Texas A&M University Public Records Support wrote:
- On 10/19/2021 10:12:05 AM, Texas A&M University Public Records Support wrote:
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- On 10/5/2021 6:09:28 PM, Lindsie Rank wrote:

FIRE v. Tarleton State University,

**Exhibit C to
Declaration of Lindsie Rank**



MEMORANDUM

DATE March 28, 2018

TO: Complainant 2
Student

FROM: Dr. Dwayne Snider (Designated Administrator)
Associate Vice President, Academic Affairs

Dr. Dwayne Snider

RE: Decision - Complaint Dated June 27, 2017

On February 26, 2018, I received the investigation report regarding the above-referenced complaint. On March 9, 2018, I requested some clarification from the investigative authority. On March 20, 2018, I received the revised final investigation report regarding the above-referenced complaint addressing the following allegations:

- Did [Respondent] sexually harass [Complainant], Complainant 2, and/or Complainant 3?

The investigative authority concluded: "Based on the preponderance of the evidence (i.e., more likely than not), I conclude that [Respondent] did not sexually harass [Complainant] or the other two anonymous complainants. There were no witnesses to the comments of a sexual nature attributed to him, and he denied making them. Therefore, the allegations that [Respondent] sexually harassed [Complainant] or the other two anonymous complainants are unsubstantiated."

- Did [Respondent] create a hostile educational environment?

The investigative authority further concluded: "... that the comments of a sexual nature attributed to [Respondent] were not sufficiently severe, persistent, or pervasive so as to unreasonably interfere with a student's educational environment or performance. Therefore, the allegation that [Respondent] created a hostile educational environment is unsubstantiated.

The investigative authority further concluded: "That being said, the fact that three separate female students were sufficiently concerned about [Respondent's] interactions with them to report them is troubling. Further, [Respondent's] invitation to a student for dinner, drinks, and a movie was inappropriate, and his admitted sharing a hotel room with a student was highly inappropriate and unprofessional behavior."

I have carefully reviewed and considered the complaint and the investigation report with exhibits and I concur with the conclusions.

Based on this finding, I recommend that Respondent's employment with the University be terminated.



You have a right to appeal in accordance with the provisions of TSU Rule 08.01.01.T1, *Civil Rights Compliance*, within Five (5) business days of receipt of this letter. In accordance with the provisions of A&M System Regulation 08.01.01, *Civil Rights Compliance*, subsection 4.5.1, an appeal should be submitted only on the following bases, as applicable:

- (a) A procedural error or omission that significantly impacted the outcome;
- (b) New evidence, unknown or unavailable during the investigation, that could have significantly impacted the outcome; or
- (c) The appropriateness or severity of the sanctions.

If you wish to inspect a redacted copy of the investigation report and exhibits please contact Ms. Angie Brown, Assistant Vice President for Employee Services at (254) 968-9128.

Pursuant to A&M System Regulation 08.01.01, subsection, 4.5.1, the decision with regard to the appeal will be final.

cc: Ms. Angie Brown, Assistant Vice President, Employee Services

FIRE v. Tarleton State University,

**Exhibit D to
Declaration of Lindsie Rank**



TARLETON STATE UNIVERSITY

Member of The Texas A&M University System

September 30, 2021

Dr. Eric Morrow
Box T- 0190
Tarleton State University

Dear Dr. Morrow,

In response to an inquiry from the Foundation of Individual Rights in Education (FIRE), the Texas A&M University System has reviewed the status of the "Texas News Service". Their finding was that Texas News Service (TNS) was never established as an independent student publication at Tarleton. The only publication that operates in that capacity is the J-TAC.

Instead, their finding was that TNS was created and operated within the Department of Communication Studies to support communication and journalism education. It operates within the department as an instructional lab providing learning and internship experiences via university employment as Interns to Learn under the guidance of departmental faculty and departmental leadership. Specific courses using TNS for a laboratory experience include COMM 1316, COMM 2311, COMM 2333, COMM 3308, COMM 3317, and COMM 3318.

Given the interpretation of OGC, it is imperative that the TNS operate only as an instructional laboratory for students and interns. Please work with departmental leadership to assure operations are aligned with that understanding.

Sincerely,

Karen R. Murray, Ph.D.
Provost and Executive Vice President
Academic Affairs

FIRE v. Tarleton State University,

**Exhibit E to
Declaration of Lindsie Rank**



November 19, 2021

R. Brooks Moore
Deputy General Counsel
The Texas A&M University System
Connally Building
301 Tarrow Street
6th Floor (Mail Stop 1230)
College Station, Texas 77840

Sent via U.S. Mail and Electronic Mail (RBM@tamus.edu)

Dear Mr. Moore:

This letter is an effort to procure compliance with three requests issued under the Texas Public Information Act (“PIA”) by FIRE¹ to the Texas A&M University System and to Tarleton State University. I trust that you are the appropriate recipient for this letter. If you are not, I respectfully request that you direct this letter to the appropriate individual.

The relevant requests relate to two issues: First, the requests relate to Tarleton State’s response to a frivolous litigation threat issued by a former professor, Michael Landis, over student newspaper *Texan News Service*’s coverage of students’ allegations that Landis sexually harassed them—allegations that culminated in a recommendation that he be terminated. Landis entered into a separation agreement with Tarleton State on September 25, 2018, releasing the Texas A&M University System and waiving “all claims and liabilities associated with or related to his employment.” Despite his waiver and the relevant statute of limitations, Landis retained new counsel some three years later and threatened to sue over articles published in 2018.² Undeterred by the First Amendment, Tarleton State compelled the student newspaper to remove the articles from the internet.

Second, the requests seek documentation related to the governance structure of *Texan News Service*. FIRE understands that the newspaper is currently housed within an academic department, that Tarleton State had considered allowing it to become a student organization, and that—after compelling *Texan News Service* to remove the articles about Landis from the

¹ The Foundation for Individual Rights in Education (FIRE) is a nonpartisan, nonprofit organization dedicated to defending liberty, freedom of speech, due process, academic freedom, legal equality, and freedom of conscience on America’s college campuses.

² Letter from Diana R. Warshow, Esq., Nesenoff & Miltenberg, LLP, to Texan News Service, July 27, 2021, available at <https://www.thefire.org/michael-landis-takedown-notice-to-texas-news-service-july-27-2021>.

internet—Tarleton State ultimately decided not only to maintain the newspaper’s current organizational structure, but imposed additional governance restrictions on student editors’ editorial freedom.

On October 5, 2021, FIRE issued three PIA requests:

1. A request to Tarleton State (1) seeking emails and communications mentioning Texan News Service or Landis, (2) notes, memoranda, and other records related to TNS or Landis, (3) Landis’ personnel record, and (4) any disciplinary records or agreements regarding Landis. (“Request 1,” referred to in Tarleton State’s Open Records Portal as F002355-10052, and enclosed as Exhibit A).
2. A request to Tarleton State for (1) “all emails and other communications . . . pertaining to any demand, request, or other correspondence from attorney Diana R. Warshow on behalf of her client Michael Landis,” (2) other records related to Warshow’s demand, and (3) records related to a request for comment on the Landis situation by journalist Nell Gluckman (“Request 2,” referred to in Tarleton’s Open Records Portal as F002356-100521, and enclosed as Exhibit B).
3. A request to the Texas A&M University System substantively reflecting Request 1. (“Request 3,” referred to in Texas A&M’s Open Records Portal as F002439-101521, and enclosed as Exhibit C).

For each of these requests, FIRE elected not to waive the requirement that the responding agency obtain a decision from the Office of the Attorney General before withholding responsive information subject to a discretionary exception.³ Where a governmental body fails to seek an attorney general decision, the requested information “is presumed to be subject to required public disclosure and must be released” in the absence of “compelling” circumstances.⁴ Regarding Requests 1 and 2, Tarleton State did not seek such a decision.

While Tarleton State has produced some records in response to Requests 1 and 2, those records, enclosed as Exhibit D, were incomplete. Tarleton State withheld responsive records in their entirety without explanation.

For example, Tarleton State should have produced, but did not, the September 30, 2021 memo from Tarleton State Provost and Executive Vice President for Academic Affairs to its Dean of the College of Liberal & Fine Arts, related to the governance and editorial independence of *Texan News Service*.⁵ It also failed to produce the March 28, 2018, memorandum issued by Tarleton State’s Associate Vice President for Academic Affairs—a document we know exists because it was published by the Tarleton State student newspaper.⁶

³ TEX. GOV’T CODE § 552.301.

⁴ TEX. GOV’T CODE § 552.302.

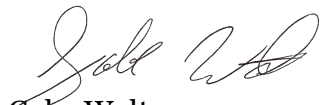
⁵ Memo. from Dr. Karen R. Murray, Provost and Vice Pres., Academic Affairs, Tarleton State Univ., to Dr. Eric Morrow, Dean, College of Liberal & Fine Arts, Tarleton State Univ., Sept. 30, 2021 (on file with author).

⁶ Memo. from Dr. Dwayne Snider, Assoc. Vice Pres., Academic Affairs, Tarleton State Univ., to Complainant 2, Student, Tarleton State Univ., Mar. 28, 2018, *available at* <http://texannews.net/wp-content/uploads/2018/03/032818-Decision-to-Complainant2-re-062717-Complaint.pdf>. That the record

These records are presumed to be subject to required disclosure and must be promptly released. The exclusion of specific records FIRE knows to exist leads us to question whether Tarleton State failed to produce other responsive documents of which we are generally aware, such as communications and notes related to the review of the status of *Texan News Service*, which are referenced in the September 30, 2021 memo.

FIRE would prefer to resolve this matter promptly without the need for further action, and we look forward to receiving complete responsive records to Requests 1 and 2 by Tuesday, November 30, 2021. We trust that Tarleton State will take this opportunity to comply with its obligations under the Texas Public Information Act.

Sincerely,



Gabe Walters

Attorney, Foundation for Individual Rights in Education

Cc: Kent Styron, Public Information Officer, Tarleton State University
Elinore T. Tecson, Assistant General Counsel, Tarleton State University

Encl.

has been made public by another entity does not relieve a government body from the obligation to produce it in response to a public records request. The PIA, to the contrary, provides that a body can meet its burden under the PIA by “referring a requestor to an exact Internet location . . . on a website maintained by the governmental body. . . .” TEX. GOV’T CODE § 552.221(b-1). This document instead demonstrates that the requested information would be subject to disclosure even had the government body timely sought an attorney general decision.

Exhibit 1

Additional Information

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Exhibit 2

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Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs.

Appeal information: If you deny any portion, or all, of this request, please provide me with a written explanation of the reason(s) for your denial, including a citation to each specific statutory exemption you believe justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If you conclude that portions of the records that I request are exempt from disclosure, please release the remainder of such records for inspection and copying, redacting only the portion or portions that you claim are exempt. For any exemptions, please note whether they are discretionary and, if so, the basis for refusing to exercise discretion in favor of granting access. Request for

Privilege Log: If any otherwise responsive documents are withheld on the basis that they are privileged or fall within a statutory exemption, please provide a privilege log setting forth (1) the subject matter of the document; (2) the person(s) who sent and received the document; (3) the date the document was created or sent; and (4) the basis on which Tarleton State University contends it is entitled to withhold the document from production. We're hopeful that Tarleton State University will provide a timely and complete response. If any part of this request is vague or ambiguous, or if we could otherwise be of assistance in interpreting or narrowing this request, please do not hesitate to contact me by phone or email.

Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek.

Preferred Method to Receive Records:

Electronic via Records Center

Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are

YES

clearly labeled on information you receive?:

Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on information you receive?:

NO

Exhibit 3

Additional Information

**Describe in detail the Record(s)
Requested:**

To whom it may concern: This is a request for records pursuant to the Texas Public Information Act (Gov't Code § 552.001, et seq.). This request seeks records related to the Tarleton State University's involvement in the operations of Texan News Service. RECORDS REQUESTED I request the following records: *All emails and other communications sent or received by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuistion, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." *All notes, memoranda, reports, and other records generated or held by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuistion, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), dated between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." *The personnel file for Michael Landis. *Any record reflecting any disciplinary records, investigation report (including the investigation report issued on or about February 26, 2018, as well as the March 9, 2018, request for clarification made by Dr. Dwayne Snider, and the March 20, 2018, final investigation report), or any agreement concerning Michael Landis. Please note that this request does not seek a search of records held by student publications, including the Texan News Service. These requests should in no way be construed to include a review or search of email accounts, websites, or other forms of data or document retention which are controlled by the Texas News Service or other student media, students, alumni, or faculty members, nor by governmental or advisory bodies controlled by the same. Any search should be limited to documents held by the administration and/or its staff members. Fee waiver

request: This request is made on behalf of the Foundation for Individual Rights in Education, a nonprofit and nonpartisan organization that works to preserve civil liberties on college campuses. We request that Tarleton State University waive any fees or costs associated with this request. This request concerns a matter of public interest, namely the First Amendment rights of student media at public universities. The public interest would be well-served by granting a fee waiver. The request is not being sought for a commercial purpose, but is instead sought by a nonprofit organization with the intent of providing the public with information concerning the conduct of government actors as that conduct pertains to civil liberties in higher education. FIRE has the means to disseminate the information sought to the public through its website, where it regularly publishes news and studies concerning government affairs. Further, pursuant to Gov't Code § 552.275 (l), FIRE may not be required to pay costs for public records requests. Further, FIRE qualifies under Gov't Code § 552.275(j)(1), as FIRE's website is a news medium engaged in the dissemination of news and information to the general public. If a fee waiver is not granted, please apprise me if the estimated costs will exceed \$5.00. Please also provide a W-9 form.

Production of records: If possible, I request that responsive records be produced in an electronic format, preferably by email. If it is necessary to send records by mail, my address is: Foundation for Individual Rights in Education Attn: Lindsie Rank 510 Walnut Street Suite 1250 Philadelphia, PA 19106 Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs. Appeal information: If you deny any portion, or all, of this request, please provide me with a written explanation of the reason(s) for your denial, including a

citation to each specific statutory exemption you believe justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If you conclude that portions of the records that I request are exempt from disclosure, please release the remainder of such records for inspection and copying, redacting only the portion or portions that you claim are exempt. For any exemptions, please note whether they are discretionary and, if so, the basis for refusing to exercise discretion in favor of granting access.

Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek.

Preferred Method to Receive Records:

Electronic via Records Center

Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on information you receive?:

YES

Do you agree to the redaction of information that is subject to discretionary exceptions, provided such

NO

**redactions are clearly labeled on
information you receive?:**

FIRE v. Tarleton State University,

**Exhibit F to
Declaration of Lindsie Rank**



Office of General Counsel

THE TEXAS A&M UNIVERSITY SYSTEM

December 1, 2021

Gabe Walters
Foundation for Individual Rights in Education
510 Walnut Street, Suite 1250
Philadelphia, PA 19106

VIA Email (lindsie.rank@thefire.org)

Re: Letter Dated November 19, 2021

Dear Mr. Walters:

We are in receipt of your November 19, 2021 letter. You contend that Tarleton State University (“university”) did not properly respond to two open records requests (Nos. F002355-100521 and F002356-100521)¹ submitted by the Foundation for Individual Rights in Education (“FIRE”). Specifically, you contend that: “While Tarleton State has produced some records in response to Requests 1 and 2 [F2355 and F2356], those records, enclosed as Exhibit D², were incomplete. Tarleton State withheld responsive records in their entirety without explanation.” After receiving your letter, we reviewed the university’s response to these requests and have determined that the university’s responses complied with the Texas Public Information Act and FIRE’s instructions.

Your letter omits a significant fact that explains the university’s response to F2355 and F2356, and your letter also incorrectly suggests that the university did not explain the basis for what was redacted/withheld. For F2355 and F2356, FIRE answered “YES” to the following question: “Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on information you receive?” On November 5, 2021, the university released certain responsive information to FIRE through the university’s open records portal and notified FIRE that certain responsive information was being redacted or withheld pursuant to listed mandatory exceptions to disclosure. According to the university’s open records portal, FIRE attorney Lindsie Rank reviewed the university’s responses within minutes. The university’s responses to F2355 and F2356 are enclosed as Exhibit 1, and you will note that each response lists the specific statutory basis for redacting or withholding information and any additional notices required by the Texas Public Information Act.³ Thus, the university only

¹ These requests are referenced as “F2355” and “F2356” in this letter.

² Your letter did not include records enclosed as Exhibit D.

³ You will also note that a number of the listed exceptions to disclosure authorize a governmental body to withhold information without requesting a decision from the Office of the Attorney General.

Mr. Gabe Walters-FIRE
December 1, 2021
Page 2 of 2

redacted or withheld information as authorized by FIRE, and the university explained the basis for redacting/withholding such information in its responses to F2355 and F2356.

In summary, the university appropriately responded to FIRE's requests and has no obligation to take further action. Please contact me at 979-458-6144 or rbm@tamus.edu if you have any questions about this letter.

Sincerely,



R. Brooks Moore
Deputy General Counsel

cc: Kent Styron
Laylan Copelin

Subject: Public Information Records F002355 100521

Body:



11/05/2021

Lindsie Rank (Open Records No. F002355-100521),

Documents responsive to your open records request F002355-100521 may be accessed from the GovQA portal. There is no charge for this information.

Some requested information has been redacted or withheld as follows:

- Pursuant to section **552.024** of the Texas Government Code (Gov't Code), the home address, home telephone number, emergency contact information, social security number, and/or family member information of a public employee or official has been redacted.
- Pursuant to section **552.102** of the Gov't Code, dates of birth have been redacted.
- Pursuant to section **552.114** of the Gov't Code, student or education records that are confidential have been withheld.
- Pursuant to section **552.130(a)** of the Gov't Code, driver's license number, license plates number, and personal identification numbers have been redacted.
- Pursuant to section **552.136** of the Gov't Code, credit card, debit card, charge card, or access device numbers that are collected, assembled, or maintained by or for a governmental body have been redacted.
- Pursuant to **552.137** of the Gov't Code, private e-mail addresses have been redacted.
- Pursuant to section **552.147** of the Gov't Code, social security numbers of living persons have been redacted.
- Pursuant to Texas Educational Code **51.971(c)**, the following has been withheld:
 1. information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and
 2. information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.
- Pursuant to the decision from the Office of the Attorney General rendered in [OR2016-27206](#), we are withholding public citizen's dates of birth.

Normally, we must request a ruling from the Texas Attorney General's Office (OAG) before we can withhold any of the information you requested. However, sections 552.024, 552.130, and 552.136 allows us to withhold this specific information without requesting a ruling from the attorney general.

You have the right to appeal our decision to withhold this information from you. Instructions for appeal are at the end of this letter. If you do not want to appeal, you do not need to do anything else. Please note that we are only withholding the specific categories of information that are confidential under the Gov't Code sections listed above. We will process the rest of your request for information in accordance with the terms of the Public Information Act.

Responsive information being released to you may be accessed from the GovQA portal by selecting the following hyperlink: <https://www.tarleton.edu/compliance/compliance/open-records-request.html>. From the link above, click on "the Open Records Portal" and then select "My Request Center" to access this open records request using the assigned reference number above. This documentation may also be made available upon request by inspection or duplication or by receipt through United States Mail, pursuant to section 552.221(b) of the Texas Government Code. Please let us know if you have any issues

EXHIBIT 1

Response to FIRE November 19, 2021 Letter

accessing the requested documentation in the portal or if you would like to review the documentation in another format as per section 552.221(b) of the Texas Government Code by contacting openrecords@tarleton.edu.

This constitutes the closure of Open Records No. F002355-100521.

Sincerely,

Kent Styron

Public Information Officer

[Tarleton State University – Open Records](#)

How to appeal the withholding of information under Texas Government Code section 552.024, 552.130, and 552.136

If you wish to appeal the withholding of information discussed on the previous page, you must send the following to the attorney general:

- 1) a signed, written statement indicating your wish to appeal the withholding of information;
- 2) the name of the governmental body that withheld information from you;
- 3) the date you made your original request for information; and
- 4) a copy of your original request for information, or if you are unable to provide a copy, a description of your original request for information.

You may also submit written comments stating why you think the information should be released to you, but you are not required to do so.

Send your appeal by mail to the attorney general at:

Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Within forty-five business days after receiving all of the above-listed items necessary to file your appeal, the attorney general will issue a written ruling on the matter. You will receive a copy of this ruling in the mail.

Subject: Public Information Records F002356 100521

Body:



11/05/2021

Lindsie Rank (Open Records No. F002356-100521),

We have received your public information request for F002356-100521, dated 10/06/2021.

The responsive documents to your open records request F002356-100521 have been uploaded into the portal. There is no charge for this information.

Pursuant to section 552.114 of the Texas Government Code (Gov't Code), certain information requested is protected pursuant to the Family Educational Rights and Privacy Act (FERPA). This protected information has been removed from the responsive documentation provided.

The hyperlink for the portal is: <https://www.tarleton.edu/compliance/compliance/open-records-request.html>. From the link above, click on "the Open Records Portal" and then select "My Request Center" to access this open records request using the assigned reference number above. This documentation may also be made available upon request by inspection or duplication or by receipt through United States Mail, as provided by section 552.221(b) of the Gov't Code. Please let us know if you have any issues accessing the requested documentation in the portal or if you would like to review the documentation in another format as per section 552.221(b) of the Gov't Code by contacting openrecords@tarleton.edu.

This constitutes the closure of Open Records No. F002356-100521.

Sincerely,

Kent Styron

Public Information Officer

[Tarleton State University – Open Records](#)

FIRE v. Tarleton State University,

**Exhibit G to
Declaration of Lindsie Rank**



OPEN RECORDS PORTAL

Public Records Menu

- Home
- FAQs
- Submit an Open Records Request
- My Request Center

FAQs

See All FAQs

Where do I go to submit a Public Records Request for each Texas A&M System Member site?

View Message(s)

Request / Incident Summary

Request Type: Public Information Records
Contact E-Mail: Lindsie.rank@thefire.org
Reference No: F002848-120321
Status: Information Withheld

Additional Information

Describe in detail the Record(s) Requested:

This is a request for records pursuant to the Texas Public Information Act (Gov't Code § 552.001, et seq.). This request seeks records related to the Tarleton State University's involvement in the operations of Texan News Service. RECORDS REQUESTED I request the following records: "All emails and other communications sent or received by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuistion, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." "All notes, memoranda, reports, and other records generated or held by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuistion, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), dated between July 15, 2021 and October 5, 2021 that mention or pertain to "Texan News Service," "TNS," or "Landis." "The personnel file for Michael Landis. "Any record reflecting any disciplinary records, investigation report (including the investigation report issued on or about February 26, 2018, as well as the March 9, 2018, request for clarification made by Dr. Dwayne Snider, and the March 20, 2018, final investigation report), or any agreement concerning Michael Landis. "All emails and other communications sent or received by university officials pertaining to any demand, request, or other correspondence from attorney Diana R. Warshow on behalf of her client Michael Landis. This includes, but it is not limited to, any correspondence concerning the Texan News Service. "All notes, memoranda, reports, and other records generated or held by university officials in connection with the aforementioned demand, request, or correspondence. "All notes, memoranda, reports, emails, or other records generated as a result of the request for comment from Nell Gluckman in August 2021 relating to Michael Landis or the Texan News Service. Please note that this request does not seek a search of records held by student publications, including the Texan News Service. These requests should in no way be construed to include a review or search of email accounts, websites, or other forms of data or document retention which are controlled by the Texan News Service or other student media, students, alumni, or faculty members, nor by governmental or advisory bodies controlled by the same. Any search should be limited to documents held by the administration and/or its staff members. Fee waiver request: This request is made on behalf of the Foundation for Individual Rights in Education, a nonprofit and nonpartisan organization that works to preserve civil liberties on college campuses. We request that Tarleton State University waive any fees or costs associated with this request. This request concerns a matter of public interest, namely the First Amendment rights of student media at public universities. The public interest would be well-served by granting a fee waiver. The request is not being sought for a commercial purpose, but is instead sought by a nonprofit organization with the intent of providing the public with information concerning the conduct of government actors as that conduct pertains to civil liberties in higher education. FIRE has the means to disseminate the information sought to the public through its website, where it regularly publishes news and studies concerning government affairs. Further, pursuant to Gov't Code § 552.275 (j), FIRE may not be required to pay costs for public records requests. Further, FIRE qualifies under Gov't Code § 552.275(j)(1), as FIRE's website is a news medium engaged in the dissemination of news and information to the general public. If a fee waiver is not granted, please apprise me if the estimated costs will exceed \$5.00. Please also provide a W-9 form. Production of records: If possible, I request that responsive records be produced in an electronic format, preferably by email. If it is necessary to send records by mail, my address is: Foundation for Individual Rights in Education Attn: Lindsie Rank 510 Walnut Street Suite 1250 Philadelphia, PA 19106 Request for expedited processing: The records pertain to a matter of public importance and current debate. Providing expedited production of the records will facilitate the public understanding of these matters before they are fully resolved. Any undue delay in production will undermine the purpose of the public records laws, which serve to allow public input and oversight of government affairs. Appeal information: If you deny any portion, or all, of this request, please provide me with a written explanation of the reason(s) for your denial, including a citation to each specific statutory exemption you believe justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If you conclude that portions of the records that I request are exempt from disclosure, please release the remainder of such records for inspection and copying, redacting only the portion or portions that you claim are exempt. For any exemptions, please note whether they are discretionary and, if so, the basis for refusing to exercise discretion in favor of granting access. Request for Privilege Log: If any otherwise responsive documents are withheld on the basis that they are privileged or fall within a statutory exemption, please provide a privilege log setting

forth (1) the subject matter of the document; (2) the person(s) who sent and received the document; (3) the date the document was created or sent; and (4) the basis on which Tarleton State University contends it is entitled to withhold the document from production. We're hopeful that Tarleton State University will provide a timely and complete response. If any part of this request is vague or ambiguous, or if we could otherwise be of assistance in interpreting or narrowing this request, please do not hesitate to contact me by phone or email.

Please be as specific as possible, including dates, names, numbers, or other identifiers that will assist in locating the information you seek.

Preferred Method to Receive Records: Electronic via Records Center

Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on information you receive?: NO

Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on information you receive?: NO

Save New Message Cancel

Messages 2 Print Messages (PDF)

- On 12/17/2021 9:24:26 AM, Texas A&M University Public Records Support wrote:
[Click Here to View Entire Message](#)
- On 12/3/2021 2:55:20 PM, Lindsie Rank wrote:

FIRE v. Tarleton State University,

**Exhibit H to
Declaration of Lindsie Rank**

Message History (2)

✉ On 12/17/2021 9:24:26 AM, Texas A&M University Public Records Support wrote:

Subject: Public Information Records :: F002848-120321

Body:



12/17/2021

Lindsie Rank (Open Records No. F002848-120321),

You requested the below information from Tarleton State University. Our response to each item of your request follows.

1. All emails and other communications sent or received by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuiston, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), between July 15, 2021 and October 5, 2021 that mention or pertain to “Texan News Service,” “TNS,” or “Landis.”
 - This information is being withheld pursuant to Tex. Gov’t Code sec. 552.114.
2. All notes, memoranda, reports, and other records generated or held by university officials, including but not limited to, James Hurley, Amanda Tollett, Karen Murray, Javier Garza, Kim McCuiston, Lori Beaty, Gabriel Cagwin, Kelli Styron, and Eric Murrow—in his capacity as Dean of the College of Liberal and Fine Arts (not in his capacity as a professor), dated between July 15, 2021 and October 5, 2021 that mention or pertain to “Texan News Service,” “TNS,” or “Landis.”
 - This information is being withheld pursuant to Tex. Gov’t Code sec. 552.114.
3. The personnel file for Michael Landis.
 - Tarleton previously provided Requestor this information on November 5, 2021 in response to your request F002355-100521.
4. Any record reflecting any disciplinary records, investigation report (including the investigation report issued on or about February 26, 2018, as well as the March 9, 2018, request for clarification made by Dr. Dwayne Snider, and the March 20, 2018, final investigation report), or any agreement concerning Michael Landis.
 - Tarleton previously provided Requestor a responsive settlement agreement on November 5, 2021 in response to your request F002355-100521. The remaining information is being withheld pursuant to Tex. Gov’t Code sec. 552.114.
5. All emails and other communications sent or received by university officials pertaining to any demand, request, or other correspondence from attorney Diana R. Warshow on behalf of her client Michael Landis. This includes, but it is

not limited to, any correspondence concerning the Texan News Service.

- Tarleton previously provided Requestor this information in response to F002356-100521 on November 5, 2021.

6. All notes, memoranda, reports, and other records generated or held by university officials in connection with the aforementioned demand, request, or correspondence.

- Tarleton previously provided Requestor this information in response to F002356-100521 on November 5, 2021.

7. All notes, memoranda, reports, emails, or other records generated as a result of the request for comment from Nell Gluckman in August 2021 relating to Michael Landis or the Texan News Service.

- Tarleton previously provided Requestor this information in response to F002356-100521 on November 5, 2021.

Sincerely,

Kent Styron

Public Information Officer

[Tarleton State University – Open Records](#)



On 12/3/2021 2:55:20 PM, Lindsie Rank wrote:

Request Created on Public Portal

FIRE v. Tarleton State University,

**Exhibit I to
Declaration of Lindsie Rank**

Message History (6)

✉ On 11/5/2021 9:07:51 AM, Texas A&M University Public Records Support wrote:

Subject: Public Information Records :: F002355-100521

Body:



11/05/2021

Lindsie Rank (Open Records No. F002355-100521),

Documents responsive to your open records request F002355-100521 may be accessed from the GovQA portal. There is no charge for this information.

Some requested information has been redacted or withheld as follows:

- Pursuant to section **552.024** of the Texas Government Code (Gov't Code), the home address, home telephone number, emergency contact information, social security number, and/or family member information of a public employee or official has been redacted.
- Pursuant to section **552.102** of the Gov't Code, dates of birth have been redacted.
- Pursuant to section **552.114** of the Gov't Code, student or education records that are confidential have been withheld.
- Pursuant to section **552.130(a)** of the Gov't Code, driver's license number, license plates number, and personal identification numbers have been redacted.
- Pursuant to section **552.136** of the Gov't Code, credit card, debit card, charge card, or access device numbers that are collected, assembled, or maintained by or for a governmental body have been redacted.
- Pursuant to **552.137** of the Gov't Code, private e-mail addresses have been redacted.
- Pursuant to section **552.147** of the Gov't Code, social security numbers of living persons have been redacted.
- Pursuant to Texas Educational Code **51.971(c)**, the following has been withheld:
 1. information that directly or indirectly reveals the identity of an individual who made a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program; and
 2. information that directly or indirectly reveals the identity of an individual as a person who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the compliance program office of an institution of higher education if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.
- Pursuant to the decision from the Office of the Attorney General rendered in [OR2016-27206](#), we are withholding public citizen's dates of birth.

Normally, we must request a ruling from the Texas Attorney General's Office (OAG) before we can withhold any of the information you requested. However, sections 552.024, 552.130, and 552.136 allows us to withhold this specific information without requesting a ruling from the attorney general.

You have the right to appeal our decision to withhold this information from you. Instructions for appeal are at the end of this letter. If you do not want to appeal, you do not need to do anything else. Please note that we are only withholding the specific categories of information that are confidential under the Gov't Code sections listed above. We will process the rest of your request for information in accordance with the terms of the Public Information Act.

Responsive information being released to you may be accessed from the GovQA portal by selecting the following hyperlink: <https://www.tarleton.edu/compliance/compliance/open-records-request.html>. From the link above, click on "the Open Records Portal" and then select "My Request Center" to access this open records request using the assigned reference number above. This documentation may also be made available upon request by inspection or duplication or by receipt through United States Mail, pursuant to section 552.221(b) of the Texas Government Code. Please let us know if you have any issues accessing the requested documentation in the portal or if you would like to review the documentation in another format as per section 552.221(b) of the Texas Government Code by contacting openrecords@tarleton.edu.

This constitutes the closure of Open Records No. F002355-100521.

Sincerely,

Kent Styron

Public Information Officer
[Tarleton State University – Open Records](#)

How to appeal the withholding of information under Texas Government Code section 552.024, 552.130, and 552.136

If you wish to appeal the withholding of information discussed on the previous page, you must send the following to the attorney general:

- 1) a signed, written statement indicating your wish to appeal the withholding of information;
- 2) the name of the governmental body that withheld information from you;
- 3) the date you made your original request for information; and
- 4) a copy of your original request for information, or if you are unable to provide a copy, a description of your original request for information.

You may also submit written comments stating why you think the information should be released to you, but you are not required to do so.

Send your appeal by mail to the attorney general at:

Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Within forty-five business days after receiving all of the above-listed items necessary to file your appeal, the attorney general will issue a written ruling on the matter. You will receive a copy of this ruling in the mail.

FIRE v. Tarleton State University,

**Exhibit J to
Declaration of Lindsie Rank**

Message History (6)

✉ On 11/5/2021 9:26:04 AM, Texas A&M University Public Records Support wrote:

Subject: Public Information Records :: F002356-100521

Body:



11/05/2021

Lindsie Rank (Open Records No. F002356-100521),

We have received your public information request for F002356-100521, dated 10/06/2021.

The responsive documents to your open records request F002356-100521 have been uploaded into the portal. There is no charge for this information.

Pursuant to section 552.114 of the Texas Government Code (Gov't Code), certain information requested is protected pursuant to the Family Educational Rights and Privacy Act (FERPA). This protected information has been removed from the responsive documentation provided.

The hyperlink for the portal is: <https://www.tarleton.edu/compliance/compliance/open-records-request.html>. From the link above, click on "the Open Records Portal" and then select "My Request Center" to access this open records request using the assigned reference number above. This documentation may also be made available upon request by inspection or duplication or by receipt through United States Mail, as provided by section 552.221(b) of the Gov't Code. Please let us know if you have any issues accessing the requested documentation in the portal or if you would like to review the documentation in another format as per section 552.221(b) of the Gov't Code by contacting openrecords@tarleton.edu.

This constitutes the closure of Open Records No. F002356-100521.

Sincerely,

Kent Styron

Public Information Officer

[Tarleton State University – Open Records](#)