



February 4, 2019

Alan Berry  
6247 Johnson Road  
Indianapolis, IN 46220

**Re: Notice of Copyright Infringement  
CEASE AND DESIST**

Dear Mr. Berry,

It has recently come to the attention of the Indiana Department of Education (IDOE) that you are in direct violation of post-employment ethics rules in revealing information that is deemed intellectual property of the Indiana Department of Education.

The infringing actions include maintaining, editing, and releasing an unauthorized version of Indiana Migrant Education Program (IMEP) documentary. Such documentary is the exclusive property of IDOE. Additionally, the release of the video violates the Family Educational Rights and Privacy Act (FERPA) as the version was released without parental consent to Mr. Berry. Any previous parental releases applied specifically and solely to IDOE. The unauthorized release utilizes content that is solely owned by IDOE in a manner and production that was not authorized by IDOE.

**IT IS REQUIRED THAT YOU CEASE AND DESIST THE FOLLOWING:**

Production, release, editing or maintenance of video content owned by IDOE, including the Indiana Migrant Education Program (IMEP) documentary.

If you fail to comply with the aforementioned demand(s) within 15 days we will have no choice but to pursue all legal causes of action, including but not limited to, the filing of a lawsuit to protect our interests. We remind you that this letter serves as a pre-suit notice for a lawsuit against you and failing to correct will likely make you liable for any damages the court determines we have suffered as a result of your infringement(s) including any reasonable attorneys' fees.

We have found the unauthorized use of our Work being used at:

- Youtube (<https://youtu.be/Oedqall4Kxg>)
- Facebook (<https://www.facebook.com/alan.berry.925>)
- Vimeo (<https://vimeo.com/312700963>)



**Dr. Jennifer McCormick**  
Superintendent of Public Instruction

DEPARTMENT OF EDUCATION

*Working Together for Student Success*

Accordingly, we demand that you immediately remove the material and cease any further all of our Work, including any other infringements, otherwise you could be liable for statutory damages as high as \$150,000 as set forth in Section 504(c)(2) therein.

**If you do not cease the use of the aforementioned copyrighted material a lawsuit will be commenced against you.**

Furthermore, we demand that you immediately cease the use and distribution of all infringing works derived from the Work, and all copies, including electronic copies, of same, that you deliver to us, if applicable, all unused, undistributed copies of same, or destroy such copies immediately and that you desist from this or any other infringement of our rights in the future.

If we have not received an affirmative response from you by the 19<sup>th</sup> day of February, 2019 indicating that you have fully complied with these requirements I shall consider taking any and all legal remedies available to rectify this situation.

Best Regards,

Andrew Bernlohr  
Director, Office of Legal Affairs