

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Naimah Shabazz,

Complainant,

Docket # FIC 2019-0191

against

Superintendent of Schools,
Hartford Public Schools;
Hartford Public Schools; and
Director of Human Resources,
Hartford Public Schools,

Respondents

January 22, 2020

The above-captioned matter was heard as a contested case on July 29, 2019, at which time the complainant and respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated February 27, 2019, the complainant requested that the respondents provide her with the following:
 - A. Copy of any and all (but not limited to) correspondence, reports, inquiries, literature, emails, invoices to, from and in reference to the below named businesses:
 1. Secova
 2. Secova Inc.
 3. Secova Service Center
 4. Secova eServices, Inc.
 5. Secova Outsourcing Solutions, Inc.
 6. Secova USA, Inc.
 7. UltraLink, Inc.
 8. iBenefits Holdings Inc.
 9. Secova Inc. 401K
 10. Secova Services Inc. 401K Plan

11. Empact EBS Inc.

- B. Copy of all contracts utilized by, and/or amended to include, the City of Hartford that are paid for out [of] the HPS/HBOE budget from January 2015 to present.
- C. Copy of all contracts of the (HPS/HBOE) that have been amended to add, and/or include, the City of Hartford.

(“February 27th request). It is found that the Hartford Board of Education (“BOE”) entered into a contract with Secova, Inc., to do an audit of health insurance benefits for Hartford public school employees.

3. By letter dated March 28, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with prompt access to the records requested in her February 27th request.

4. Section 1-200(5), G.S., defines “public records or files” as:

any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

5. Section 1-210(a), G.S., provides in relevant part that:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part that “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

7. It is found that the records requested by the complainant are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that upon receiving a copy of the complainant’s February 27th request, Suhail Aponte, the Labor Relations/Information Specialist for Hartford Public Schools,

forwarded such request to the risk assessment department within the BOE, where any Secova-related documents would typically be maintained.

9. It is found that, by letter dated May 3, 2019, Ms. Aponte provided the complainant with 58 pages of documents (including emails and a professional service contract between the BOE and Secova, Inc.), which were responsive to the February 27th request. Ms. Aponte also informed the complainant that there were no records responsive to the request described in paragraph 2[C], above. It is found that Ms. Aponte did not provide the complainant with any email attachments.

10. It is found that Attorney Cynthia Lauture, the respondents' Assistant Corporation Counsel, also spoke to the complainant regarding the February 27th request, and based upon such conversation and her review of the records provided to the complainant by Ms. Aponte, as described in paragraph 9, above, Attorney Lauture requested that the City's IT department conduct another search for emails utilizing the terms "Secova" and "Board of Education." It is found that such search generated thousands of emails. It is also found that the respondents had technical difficulties opening and forwarding the emails (i.e., computer system repeatedly crashed) due to the volume.

11. It is found that, by letter dated June 11, 2019, Attorney Lauture informed the complainant that over 1,500 additional emails responsive to the February 27th request had been located and sent to her in batch form.

12. At the hearing, Attorney Lauture testified that she withheld records containing personally identifying information (e.g., social security numbers, children's names, health beneficiaries). Attorney Lauture also testified that she did not provide certain email attachments that were duplicative (e.g., BOE contract with Secova, Inc.), attachments where malware was detected, and attachments sent by Secova, Inc., that were password protected.

13. At the hearing, the complainant acknowledged that the respondents provided her with records responsive to the February 27th request, but contended that there are additional records (e.g., attachments to emails) that have yet to be provided. The complainant did not pursue the promptness allegation set forth in her complaint, nor did she challenge the withholding of duplicative records and those records containing personally identifying information as described in paragraph 12, above.

14. It is found that the respondents failed to provide the complainant with all records responsive to the February 27th request. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondents shall forthwith provide copies of all email attachments which have yet to be provided to the complainant that are responsive to the February 27th request, free of charge.

2. In complying with paragraph 1 of this order, the respondents may withhold any email attachments that are duplicative or contain personally identifying information.

3. Henceforth, the respondents shall strictly comply with the disclosure provisions in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 22, 2020.

Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

NAIMAH SHABAZZ, PO Box 4271, Hartford, CT 06147

SUPERINTENDENT OF SCHOOLS, HARTFORD PUBLIC SCHOOLS; HARTFORD PUBLIC SCHOOLS; AND DIRECTOR OF HUMAN RESOURCES, HARTFORD PUBLIC SCHOOLS, c/o Attorney Lori Mizerak, City of Hartford, Office of the Corporation Counsel, 550 Main Street, Suite 210, Hartford, CT 06103

Cynthia A. Cannata
Acting Clerk of the Commission