

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Attie Lordan and Anita Arakelian,

Complainants

against

Docket #FIC 2023-0169

Superintendent of Schools, West Hartford
Public Schools; Director of Finance and
Planning, West Hartford Public Schools;
and West Hartford Public Schools,

Respondents

March 13, 2024

The above-captioned matter was heard as a contested case on September 19, 2023 and November 8, 2023, at which times the complainants and the 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 email dated February 27, 2023, the complainants requested that the respondents provide them with copies of the following:

For fiscal year 2020 through 2021, fiscal year 2021 through 2022, and fiscal year 2022 through 2023, [please provide copies of] all records of financial detail including, but not limited to, a) Journal Entries; b) Quotes; c) Purchase Orders; d) Statements from Providers for Goods and Services; e) Paid Receipts; f) Financial Agreements between West Hartford Public Schools and Providers of Goods and Services; g) Bank Statements; and h) Year End Encumbrances with supporting documentation, with regard to the following thirteen [general ledger] accounts:

General Ledger Accounts:

- i. Account 5319: Professional Technical Services;
- ii. Account 5345: Pupil Transportation;
- iii. Account 5360: Printing and Binding;
- iv. Account 5410: Repair/Maintenance of Equipment;
- v. Account 5420: Rentals;
- vi. Account 5490: Contracted Services;
- vii. Account 5510: Instructional Supplies;
- viii. Account 5511: Audio/Visual Software;
- ix. Account 5515: Office Supplies;
- x. Account 5517: Nutritional Services Supplies;
- xi. Account 5530: Library Books;
- xii. Account 5641: Audio/Visual Equipment; and
- xiii. Account 5642: Computer Equipment.

3. It is found that, by email dated March 2, 2023, the respondents acknowledged the complainants' request.

4. By letter dated and filed March 24, 2023, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide them with copies of all the requested records.

5. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means 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, videotaped, printed, photostated, photographed or recorded by any other method.

6. 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... (3) receive a copy of such records in accordance with section 1-212.

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

8. It is concluded that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the contested case hearings, the complainants indicated that they had received some, but not all, responsive records. The complainants also contended that the respondents falsified a record.

10. Elizabeth Hewitt, Director of Finance and Planning for West Hartford Public Schools, appeared and testified at both contested case hearings.

11. It is found that, shortly after receiving the request set forth in paragraph 2, above, the respondents determined that there were approximately *59,906 transactions* responsive to the request. Based upon Ms. Hewitt’s testimony, it is found there are multiple responsive records pertaining to almost all of the transactions. It is further found that, because the respondents’ records are not stored electronically, the respondents are required to find the relevant boxes for each of the thirteen accounts, and then, based on the particular transaction, the respondents are required to find each responsive record. It is found that this process includes hand-searching numerous boxes, removing staples from packages of records affixed together, copying the selected records, and then returning the records to the boxes from which they came and in the form in which they were discovered.

12. It is found that completely processing the request set forth in paragraph 2, above, will be a Herculean task. The Commission takes administrative notice of the evidence and testimony in Anita Arakelian v. Superintendent of Schools, West Hartford Public Schools, et al., Docket #FIC 2022-0181 (Feb. 22, 2023), which decision describes in detail the process of locating, reviewing, and disclosing the kind of financial records requested in the instant matter.

13. It is found that, by the time of the first contested case hearing, the respondents had disclosed nine separate batches of responsive records to the complainants on the following dates: March 7, 2023; March 31, 2023; July 31, 2023; August 16, 2023; August 18, 2023; August 30, 2023; September 1, 2023; September 8, 2023; and September 14, 2023. It is found that such responsive records, which were disclosed to the complainants at no cost, were

responsive to various parts of each of the thirteen accounts set forth in paragraph 2, above.

14. At the November 8, 2023 contested case hearing, Director Hewitt updated the hearing officer on the status of processing the request. It is found that, by the time of the November 8 hearing, the respondents had provided six additional batches of responsive records to the complainants, at no cost, on the following dates: October 2, 2023; October 6, 2023; October 12, 2023; October 20, 2023; October 26, 2023; and November 1, 2023.

15. With regard to the complainants' contention that certain records appeared to have been redacted, it is found that the only redactions the respondents made were pursuant to §1-210(b)(17), G.S. (the Family Rights and Privacy Act, commonly referred to as "FERPA"). It is found that the FERPA redactions pertain to student names and related identifying information. It is further found that the complainants did not challenge the redactions made pursuant to FERPA at either of the contested case hearings and expressly indicated at the second contested case hearing that they were not challenging such redactions.¹

16. It is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., by redacting student names and related identifying information from the requested records.²

17. With regard to the contention that the respondents falsified a record, it is found that each batch of responsive records provided to the complainants was accompanied by a cover letter. It is found that, during the first contested case hearing, the respondents introduced a cover letter dated July 28, 2023. See Ex. 4. The complainants contended that this document was falsified because they did not receive a disclosure of records under cover letter dated July 28, 2023. It is found that the cover letter dated July 28, 2023 was a draft letter that was never sent to the complainants. It is further found that such draft letter was submitted into evidence in error. Finally, it is found that the July 28 draft letter was ultimately incorporated into the cover letter that accompanied the July 31, 2023 disclosure. See ¶ 13, above.

¹ By motion received and filed on January 22, 2023, the complainants requested an in camera inspection with regard to the FERPA redactions. Because the complainants had expressly indicated during the contested case hearing proceedings that they were not challenging such redactions, the hearing officer did not order the redacted records to be submitted for in camera inspection and instead granted the parties' joint request for an extended briefing schedule (the second contested case hearing took place on November 8, 2023, and post hearing briefs were ordered to be filed by January 16, 2024). Because the complainants' motion for an in camera inspection was received approximately two and a half months following the close of evidence, and because of the express statements referenced in paragraph 15, above, such motion was denied.

² The complainants also contended that three pages they received from the respondents had either been redacted or improperly copied. It is found that some of the print on such pages had been cut off during the copying process. It is found that, under cover letter dated September 20, 2023, the respondents recopied these pages and provided them to the complainants again.

18. It is concluded therefore that the respondents did not violate the provisions of §§1-210(a) or 1-212(a), G.S., by falsifying a record.

19. Overall, it is found that the respondents have actively processed the request set forth in paragraph 2, above, both prior to the appeal filed by the complainants as well as during the administrative proceedings which took place in this matter.

20. It is concluded therefore that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., as alleged in the complaint.

21. Finally, with regard to whether the respondents have acted promptly in responding to the instant request, this Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the records; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without loss of the personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

22. While the Commission realizes that not all responsive records have been provided to the complainants, it is found that the amount of work the respondents have performed to produce the records that have been disclosed to the complainants thus far is extraordinary. It is also found that Director Hewitt and her accounts payable clerk are the individuals tasked with processing the complainants' request. It is also found that, while the respondents were processing the instant request, they had a myriad of other responsibilities to attend to, including responsibilities concerning their budget season, which entailed preparing budget analyses and budget books; meeting with the Board of Education on a monthly basis and preparing monthly reports; handling fiscal matters, including employee payroll and ensuring that vendors were paid; recruiting, hiring and training a new payroll and benefits manager; managing their grants and handling their grant reporting obligations; handling current and long term enrollment projections; managing the school lotteries for one magnet middle school, two magnet elementary schools, and one pre-kindergarten school; and managing their year-end obligations and reporting all of the financial transactions of the district for the entire year.

23. It is further found that, at the time the respondents received the complainants' request set forth in paragraph 2, above, they were in the process of completing a response to a prior request for records from complainant Arakelian. The Commission takes administrative notice of its final decision in Anita Arakelian v. Chair, Bd. of Finance, West Hartford Pub. Schools, et al., Docket #FIC 2022-0127 (Feb. 22, 2023).

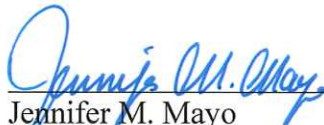
24. It is found that the respondents have worked diligently in this case and in accordance with the promptness criteria set forth in Advisory Opinion #51. Furthermore, the Commission has no doubt that the respondents will continue to process this request and will use their best efforts to produce responsive records to the complainants on a weekly basis in accordance with the complainants' prioritization request³ until all responsive records have been provided to the complainants.

25. It is concluded that the respondents did not violate the promptness provisions of §§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 complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 13, 2024.



Jennifer M. Mayo
Acting Clerk of the Commission

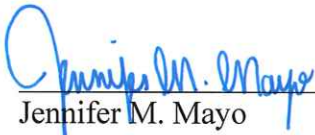
³ The Commission notes that the complainants informed the respondents that, with regard to the thirteen general ledger accounts, they wanted the accounts with the highest dollar expenditures processed before the accounts with the lowest dollar expenditures. It is found that, even though the respondents inadvertently overlooked the complainants' prioritization request, they processed the request in accordance with such request, as the respondents focused initially on processing the Pupil Transportation account, which is the general ledger account with the highest dollar expenditures.

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:

ATTIE LORDAN, 561 Park Road, West Hartford, CT 06107; **AND ANITA ARAKELIAN**, 48 West Normandy Drive, West Hartford, CT 06107

SUPERINTENDENT OF SCHOOLS, WEST HARTFORD PUBLIC SCHOOLS; DIRECTOR OF FINANCE AND PLANNING, WEST HARTFORD PUBLIC SCHOOLS; AND WEST HARTFORD PUBLIC SCHOOLS, c/o Attorney Julie Reznik, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103



Jennifer M. Mayo
Acting Clerk of the Commission