

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jeremiah Stafford,

Complainant

against

Docket #FIC 2021-0682

Chairman, Board of Education, Darien
Public Schools; and Board of Education,
Darien Public Schools,

Respondents

November 16, 2022

The above-captioned matter was heard as a contested case on April 28, 2022, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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 November 4, 2021, the complainant requested that the respondent Chairman, David Dineen, provide him with the following: "the exact date and time, phone number and/or email, name of the person and any content attached to the screenshot¹ you [David Dineen] sent to Dr. Addley [Superintendent, Darien Public Schools] that was then cited [in] the Darien Police Department Incident Report 2021-013282."
3. It is found that, by email dated November 4, 2021, the respondent Chairman received and acknowledged the request described in paragraph 2, above, and he advised the complainant that the request was referred to the Darien Public Schools Director of Human Resources and FOI Coordinator for processing.
4. By email dated and filed December 3, 2021, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records described in paragraph 2, above.

¹ A screenshot is "an image that shows the contents of a computer display." "Screenshot," *Merriam-Webster.com Dictionary*, Accessed September 20, 2022, from <https://www.merriam-webster.com/dictionary/screenshot>.

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:

[e]xcept 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: “[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 found 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. It is found that the complainant’s son posted a message on a private Facebook page, which read, “Officially Jewtown week (smiling devil emoji) #fuck.” It is further found that a different individual, unknown to the complainant, captured a screenshot of such Facebook message and subsequently forwarded the screenshot to the respondent Chairman via text message. It is further found that the respondent Chairman then texted the screenshot to Dr. Addley, the Superintendent of the Darien Public Schools.

10. It is found that the respondents provided the complainant with a copy of the screenshot identified in paragraph 9, above, but did not provide any other records.

11. At the hearing in this matter, the respondents contended that, other than the screenshot described in paragraph 9, above, they do not maintain any records responsive to the complainant’s request set forth in paragraph 2, above. The complainant disputed this contention.

12. Based on the credible testimony of the Human Resources and FOI Coordinator, the respondent Chairman, and Superintendent Addley, it is found that the respondents do not maintain any records responsive to the complainant’s request, other than the screenshot already provided to the complainant. It is found that the respondent Chairman sent only the screenshot to

Dr. Addley via text message, without any additional communication or record, and that Dr. Addley did not respond to the respondent Chairman via text.

13. Further, it is found that the complainant's request for "the exact date and time, phone number and/or email, name of the person," is not a request for public records, but instead is a request that the respondents answer questions and disclose the identity of the individual who reported his son's Facebook message to the respondent Chairman. The Commission has long concluded, and the court has affirmed, that a public agency is not required to answer questions or create records under the FOI Act, and the Commission has no authority to compel the respondents to answer the complainant's questions. See Albright-Lazzari v. Murphy, No. CV105014984S, 2011 WL 1886878, at *3 (Conn. Super. Ct. Apr. 21, 2011) (concluding that the FOI Commission did not err in its determination that the public agency had no duty to answer questions or create documents that it did not maintain.)

14. Based upon the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 16, 2022.



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:

JEREMIAH STAFFORD, 43 Blueberry Lane, Darien, CT 06820

CHAIRMAN, BOARD OF EDUCATION, DARIEN PUBLIC SCHOOLS; AND BOARD OF EDUCATION, DARIEN PUBLIC SCHOOLS, c/o Attorney Jessica Richman Smith, Shipman and Goodwin LLP, 300 Atlantic Street, 3rd Floor, Stamford, CT 06901 and Attorney Dori P. Antonetti, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06443



Cynthia A. Cannata
Acting Clerk of the Commission