

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Anita Arakelian,

Complainant

against

Docket #FIC 2022-0181

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

Respondents

February 22, 2023

The above-captioned matter was heard as a contested case on September 26, 2022, at which time the complainant and the respondents appeared 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 March 16, 2022 ("March 16th request"), the complainant requested to inspect the following records, among others that are no longer at issue:
 - (a) any and all communications between September 2019 through March 16, 2022, where Principal of Webster Hill School, Melissa Behrens, refers either directly or indirectly, to Raffi Arakelian or Anita Arakelian; and
 - (b) a list of all personnel who accessed Raffi Arakelian's school records, with the specific dates of access and the purpose of such access, between September 2019 through March 16, 2022.
3. It is found that, by email dated March 16, 2022, the respondents acknowledged the complainant's request. It is also found that, by letter dated March 31, 2022, the respondents informed the complainant that they conducted a thorough search for responsive records and provided the complainant with a thumb drive containing a copy of all records responsive to her March 16th request.

4. It is found that, by email dated April 6, 2022 (“April 6th request”), the complainant requested to inspect the following records, among others that are no longer at issue:

- (a) “[a]ll records that substantiate the numerical figures associated with the following journal entry numbers for Fiscal Year 2020-2021:” 85, 155, 187, 217, 311, 386, 438, 536, 580, 586, 606, and 875;
- (b) “[a]ll records that substantiate the numerical figures associated with Object Number/Account 5513 for Fiscal Year 2020-2021”;
- (c) “[a]ll records pertaining to the grant application and subsequent recording of the \$3,000,000 Grant-in-Aid for new athletic facilities for Hall and Conard High Schools”; and
- (d) “[a]ll records pertaining to and/or including grant applications for/in the name of/on behalf of Webster Hill School to federal, Connecticut State and/or local agencies for fiscal years 2019-2020, 2020-2021, and 2021-2022.”

5. It is found that, by email dated April 6, 2022, the respondents acknowledged the complainant’s April 6th request.

6. By letter of complaint, dated April 22, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records, described in paragraphs 2 and 4, above.

7. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

8. 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.

9. 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.”

10. 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.

11. At the hearing in this matter, the complainant argued that the respondents did not disclose all records responsive to her March 16th request. Specifically, with regard to the records described in paragraph 2(a), above, the complainant argued that she only received copies of email communications, even though she requested “all forms of communication”, and with regard to the records described in paragraph 2(b), above, the complainant argued the respondents failed to disclose any responsive records.

12. With regard to the records described in paragraph 2(a), above, the respondents testified, and it is found, that they communicated solely through the use of email. It is also found, that the respondents’ Information Technology Manager conducted a thorough search for emails responsive to the March 16th request, and that copies of all such responsive records were disclosed to the complainant.

13. With regard to the records described in paragraph 2(b), above, it is found that student records are physically stored in a file cabinet in a locked closet and that only two staff members have access to such records. The respondents testified, and it is found, that the respondents do not maintain a list of personnel who access student records, the date such records are accessed, or the reason such records are accessed.

14. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to the March 16th request.

15. With regard to the complainant’s April 6th request, the respondents testified, and it is found, that at the time of the hearing in this matter, they had disclosed copies of some of the records responsive to the request described in paragraphs 4(a) and 4(b), above, and were continuing to provide responsive records on a rolling basis.

16. With regard to the records described in paragraph 4(c), above, the respondents testified, and it is found, that such records did not exist at the time of the April 6th request. It is found, however, that once the responsive agreement was executed, on or around, August 31, 2022, the respondents provided a copy of such agreement to the complainant.

17. With regard to the records described in paragraph 4(d), above, the respondents testified, and it is found, that they do not maintain any responsive records.

18. At the hearing in this matter, the complainant conceded that some of the requested records may not exist, but she argued that the respondents failed to “promptly” provide all records responsive to the requests described in paragraphs 4(a) and 4(b), above.

19. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised that the word “promptly,” as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. As the court recognized in Commissioner of Department of Emergency Services and Public Protection v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. HHB-CV-18-6047741 (July 20, 2020) *6, a public agency should consider its obligations under the FOI Act as a “primary duty” of that agency, “on par with the [agency’s] other significant duties, or said another way, that the agency’s FOIA duty is not a second class duty.”

20. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; 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 the loss of the personnel time involved in complying with the request.

21. With regard to the factors listed above, it is found that the complainant did not indicate in her request that she needed the requested records by a particular date.

22. It is found that the respondent Director of Finance, Elizabeth Hewitt, is the person primarily responsible for responding to the complainant’s April 6th request. It is also found that Hewitt has two staff members who, in addition to their other duties and responsibilities, assist Hewitt with FOI requests.

23. The respondents testified, and it is found, that Hewitt began working on the complainant’s April 6th request upon returning from vacation on April 18, 2022. It is also found that the respondents provided records responsive to the complainant’s April 6th request on a rolling basis, and as of the date of the hearing in this matter, had made three separate disclosures on: May 9, 2022; May 20, 2022; and September 22, 2022.

24. The respondents also testified that they did not claim any exemptions for the responsive records and did not anticipate that they would make any claim of exemption for the remainder of the records, described in paragraphs 4(a) and 4(b), above. The respondents further testified that due to the volume of the records requested, the time required to comply with the request, and the many other duties required of the respondents’ limited personnel, the respondents are doing their best to promptly comply with the complainant’s request.

25. With regard to the records described in paragraph 4(a), above, the respondents testified, and it is found, that they disclosed copies all of responsive records for journal entry

numbers: 85, 155, 177, 217, 311, 386, and 438. The respondents also testified that they are still working on locating and disclosing responsive records for journal entry numbers: 536, 580, 586, 606, and 875 (“outstanding records”).

26. It is found that the outstanding records described in paragraph 25, above, are records that substantiate monthly purchasing card postings for specific purchases made by purchasing card holders from all sixteen schools throughout the entire school district. It is also found that there are 105 purchasing card holders, and all transactions are reported by purchasing card holders on a monthly basis.

27. The respondents testified, and it is found, that in order to locate and disclose the outstanding records, described in paragraph 25, above, the following process is required for each line item containing the corresponding journal entry number: staff must go into the financial system, find the desired transaction, go to a monthly spreadsheet, match that dollar amount and transaction on that spreadsheet, determine which employee made the purchase, go to that month’s credit card statements, locate the employee, flip through those physical statements until the matching receipt is located, take that packet apart and photocopy the receipt, put the packet back together and refile it, and then move on to the next line item and repeat these steps. Hewitt, further testified, and it is found, that she can undergo such process twelve times per hour and that, in order for her to locate all outstanding records described in paragraph 25, above, her office must repeat this process approximately 230 more times.

28. With regard to the records described in paragraph 4(b), above, the respondents testified that such records describe detailed software purchases and that there are 240 responsive transactions. The respondents also testified, and it is found, that, of those 240 transactions, the respondents have disclosed eleven transactions to the complainant and have tried to prioritize responsive transactions with the highest dollar amounts. It is found that the eleven transactions previously disclosed to the complainant represent 74 percent of the total expenditure on responsive software purchases. The respondents further testified, and it is found, that the process for locating such records is similar to the process described in paragraph 27, above, and also takes approximately the same amount of time.

29. The respondents further testified, and it is found, that they will continue to locate and disclose the responsive records described in paragraphs 4(a) and 4(b), above, on a rolling basis, as their schedules and other duties permit.

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

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 February 22, 2023.



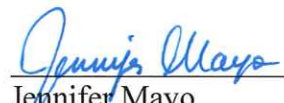
Jennifer Mayo
Acting Clerk of the Commission

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:

ANITA ARAKELIAN, 48 West Normandy Drive, West Hartford, CT 06107

SUPERINTENDENT OF SCHOOLS, WEST HARTFORD PUBLIC SCHOOLS; DIRECTOR OF FINANCE, TOWN OF WEST HARTFORD; TOWN OF WEST HARTFORD; AND WEST HARTFORD PUBLIC SCHOOLS, c/o Cynthia Lauture, Esq., Office of the Corporation Counsel, 50 South Main Street, Room 319, West Hartford, CT, 06107



Jennifer Mayo
Acting Clerk of the Commission