

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Melissa Combs,

Complainant

against

Docket # FIC 2023-0546

Superintendent of Schools, Farmington  
Public Schools; and Farmington Public  
Schools,

Respondents

November 20, 2024

The above-captioned matter was heard as a contested case on April 17, 2024, at which time the complainant 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 letter dated November 1, 2023, the complainant requested that the respondents provide her with copies of the following:

[a.] Any complaints, disciplinary records, memos or emails for James Montagna, Alyson Mooney, James MacNamara, Dan Mikulak,<sup>1</sup> Griselle Aponte, Carl Shugart, and Brian Fields<sup>2</sup>; and]

[b.] Any complaints and disciplinary memos for [Irving A. Robert's Middle School ("IAR")] faculty and staff between August 1, 2021 and July 31, 2023[.]<sup>3</sup>

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<sup>1</sup> At the April 17, 2024 contested case hearing on this matter, the complainant stated that she received responsive records relating to Dan Mikluk and that she was not contesting the adequacy of such response.

<sup>2</sup> It is found that the correct spelling for Mr. Field is "Bryan Field."

<sup>3</sup> At the contested case hearing, the complainant withdrew her claims concerning her requests for other records, including certain records and video regarding an incident that occurred on March 4, 2022 as well as a separate incident that occurred on June 3, 2022. The complainant also acknowledged that the respondents provided records responsive to her November 1, 2023 request for post or comments made by her child in certain "Google Classrooms" and that such request was not at issue in this matter.

It is found that the complainant also requested that the respondents waive any associated fees pursuant to §1-212(d), G.S.

3. It is found that, by email dated November 2, 2023, the respondents acknowledged the complainant's November 1, 2023 request, and notified the complainant of the following:

The district will promptly begin gathering those records, but given the scope of your request, it will take some time. After we start the process, we will have a better estimate of when we can provide the responsive records. In the meantime, do you wish to identify an order of priority for the records you are seeking? We will be happy to conduct our search and provide you the responsive, non-exempt public records.

We have considered your further request that related fees be waived, and we will be waiving fees as established by the Freedom of Information Act.

4. It is found that, by email dated November 3, 2023, the Assistant Superintendent for Finance and Operations ("Assistant Superintendent") for the Farmington Public Schools requested the following clarification from the complainant:

[a.] ("Any complaints, disciplinary records, memos or emails for James Montagna, Alyson Mooney, James MacNamara, Dan Mikulak, Griselle Aponte, Carl Shugart, and Brian Fields.") - *Please confirm that you are requesting complaints against the named employees; disciplinary records of the named employees; memos related to discipline of the named employees; and emails related to discipline of the named employees.*

[b.] ("Any complaints and disciplinary memos for faculty and staff between August 1, 2021 and July 31, 2023.") - *Please confirm that you are requesting, for the time frame August 1, 2021 through July 31, 2023, complaints against any faculty or staff member at IAR Middle School, and memos related to discipline of any faculty or staff member at IAR Middle School.*

(Emphasis added.)

5. It is found that, by email dated November 17, 2023, the Assistant Superintendent notified the complainant of the following:

I wanted to reach out and follow up on my email ... to you from November 3, 2023, in which I requested clarification on your November 1, 2023 FOI request. Please respond with the requested clarification at your earliest convenience so that the District can

promptly fulfill your FOI request.

6. It is found that, by email dated November 20, 2023, the complainant indicated to the respondents the following:

[a.] ("Any complaints, disciplinary records, memos or emails for James Montagna, Alyson Mooney, James MacNamara, Dan Mikulak, Griselle Aponte, Carl Shugart, and Brian Fields.") - Please confirm that you are requesting complaints against the named employees; disciplinary records of the named employees; memos related to discipline of the named employees; and emails related to discipline of the named employees. *I am requesting disciplinary records for any of the named employees and any complaints, memos, and/or emails related to the disciplinary records.*

[b.] ("Any complaints and disciplinary memos for IAR faculty and staff between August 1, 2021 and July 31 , 2023.") - Please confirm that you are requesting, for the time frame August 1, 2021 through July 31 , 2023, complaints against any faculty or staff member at IAR Middle School, and memos related to discipline of any faculty or staff member at IAR Middle School. *I am requesting disciplinary records for any of the named employees and any complaints, memos, and/or emails related to the disciplinary records.*

(In original emphasis was in light gray.)

7. It is found that, by email dated December 5, 2023, the respondents informed the complainant that records responsive to her requests described in paragraph 6, above, were ready for pick-up.

8. It is found that, on December 6, 2023, the respondents provided the complainant with the following records responsive to the requests described in paragraph 6, above: certain disciplinary records for Griselle Aponte, Dan Mikulak, David Hart, Jaden Green, Whitney Boyajian, and Randy Lindstrom.

9. By complaint filed December 8, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with all of the records described in paragraph 6, above.

10. 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.

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

[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.

12. 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.”

13. It is concluded that the records described in paragraph 6, above, to the extent that such records exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

14. At the hearing on this matter, the complainant contended that the respondents failed to provide her with copies of all requested records and failed to conduct an adequate search for such records.<sup>4</sup> The respondents disputed these contentions and claimed that they provided all responsive records in their possession.

15. Additionally, the complainant specifically identified the following records as missing from the records the respondents provided in response to her request:

a. A disciplinary letter, dated March 28, 2022, from the principal of IRA to Mr. Montagna (“March 28, 2022 Disciplinary Letter”);

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<sup>4</sup> The complainant also contended that the respondents improperly withheld records relating to teacher misconduct that were included within certain teacher evaluations. Section 10-151c, G.S., provides that

records of teacher performance and evaluation shall not be deemed to be public records and shall not be subject to the provisions of section 1-210....  
Notwithstanding any provision of the general statutes, ... records of the personal misconduct of a teacher shall be deemed to be public records and shall be subject to disclosure pursuant to the provisions of subsection (a) of section 1-210.

It is found that the respondents contended that not only that §10-151c, G.S., does not require or permit the respondents to disclose teacher evaluations, but also that they did not provide the complainant with copies of teacher evaluations because such records were not responsive to the requests described in paragraph 6, above. It is found that the complainant did not request records of personal misconduct, rather her requests were limited to disciplinary records. Accordingly, even if teacher evaluations might include reference to personal misconduct, it is found that such records were outside the scope of the requests described in paragraph 6, above.

- b. Certain information related to the content of the March 28, 2022 Disciplinary Letter that was included in Mr. Montagna's Summative Teacher Evaluation Form for the year 2021-2022 ("Montagna's 2021-2022 Summative Teacher Evaluation");
- c. An April 22, 2022 email to James McNamara from the Principal of IAR ("April 22, 2022 McNamara Email"); and
- d. Disciplinary records related to certain other IAR employees.

### **March 28, 2022 Disciplinary Letter**

16. It is found that the March 28, 2022 Disciplinary Letter appears to be responsive to the complainant's request described in paragraph 6.a., above; however, it is found that Mr. Montagna,<sup>5</sup> and not the respondents, provided the complainant with a copy of such letter.

17. After reviewing and considering the full Administrative Record, the hearing officer determined that additional evidence was required regarding the March 28, 2022 Disciplinary Letter and the reasons the respondents failed to provide a copy of it to the complainant.

18. On October 29, 2024, the hearing officer ordered the respondents to submit an affidavit attesting to certain information regarding the March 28, 2022 Disciplinary Letter. On November 4, 2024, in response to the hearing officer's October 29, 2024 Order, the respondents submitted an affidavit dated November 5, 2024, of Kimberly Wynne, the Assistant Superintendent of Curriculum, Instruction and Human Resources for the Farmington Public Schools ("Wynne Affidavit") – Respondents' Exhibit 3 (after-filed).

19. It is found that the March 28, 2022 Disciplinary Letter alleged violations of certain policies of the Farmington Public Schools Board of Education and identified certain retraining as a disciplinary measure.

20. Based upon the Wynne Affidavit, it is found that Mr. Montagna filed a grievance with respect to the March 28, 2022 Disciplinary Letter, which resulted in a settlement.

21. Based upon the testimony at the hearing on this matter and the Wynne Affidavit, it is found that, in response to Mr. Montagna's grievance and in compliance with the settlement terms described in paragraph 20, above, the Farmington Public Schools removed the March 28, 2022 Disciplinary Letter, on or about May 19, 2022, from all of Mr. Montagna's personnel records, and it had no further effect as a disciplinary record.

22. It is found that, at the time of the request described in paragraph 6.a., above, the Farmington Public Schools no longer maintained a copy of the March 28, 2022 Disciplinary Letter as a disciplinary record. It is further found that, at the time of the request described in paragraph 6.a., above, Mr. Montagna's personnel files contained no disciplinary records.

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<sup>5</sup> It is found that Mr. Montagna previously was a teacher for the Farmington Public Schools.

23. In addition, it is found that the complainant's request described in paragraph 6.a., above, was limited to "disciplinary records" and records related to discipline.

24. The Assistant Superintendent testified, and it is found, that within the Farmington Public Schools, discipline follows a progressive pattern, from a reprimand progressing in more severity depending on the respective facts and circumstances. However, he also testified, and it is found, that the administration often coaches teachers about their behavior but such feedback does not constitute "discipline."

25. Discipline is defined by Black's Law Dictionary as: "Punishment intended to correct or instruct; esp., a sanction or penalty *imposed* after an official finding of misconduct." (Emphasis added.) Black's Law Dictionary, (10th Ed. 2014); *see e.g. Weinstein v. Univ. of Connecticut*, No. HHDCV116027112S, 2018 WL 2222131, at \*6 (Conn. Super. Ct. Apr. 25, 2018) ("*Weinstein*") (holding that discipline in §31-51q, G.S., refers to any adverse material consequence relative to a right, term, condition or benefit of employment).

26. It is found that, at the time of the request described in paragraph 6.a., above, the March 28, 2022 Disciplinary Letter did not refer to an imposed sanction or penalty nor any adverse material consequence relative to a right, term, condition or benefit of employment; thus it did not constitute a disciplinary record.

27. For the above reasons, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by failing to provide the complainant with a copy of the March 28, 2022 Disciplinary Letter.

### **Part of Montagna's 2021-2022 Summative Teacher Evaluation**

28. The complainant contended that the subject matter of the March 28, 2022 Disciplinary Letter was ultimately incorporated into Mr. Montagna's 2021-2022 teacher's evaluation form ("Montagna's 2021-2022 Summative Teacher Evaluation") and, therefore, the section of Montagna's 2021-2022 Summative Teacher Evaluation that included the subject matter of the March 28, 2022 Disciplinary Letter should have been provided to her in response to her request described in paragraph 6.a., above.

29. As found in paragraph 23, above, the complainant's request described in paragraph 6.a., above, was limited to "disciplinary records" and records related to "discipline."

30. As noted in paragraph 25, above, Black's Law Dictionary defines discipline as "... a sanction or penalty imposed after an official finding of misconduct." Black's Law Dictionary, (10th Ed. 2014); *see e.g. Weinstein*, 2018 WL 2222131, at \*6.

31. It is found that "disciplinary records" are records relating to disciplinary action, such as reprimands, demotions, suspensions, or discharges. *See Rose v. Freedom of Info. Comm'n*, 221 Conn. 217, 234 (1992) (concluding that disciplinary actions include letters of reprimand,

suspensions, or terminations, which might become records contained within the plaintiff's personnel file).

32. It is found that Montagna's 2021-2022 Summative Teacher Evaluation included a reference to the same subject matter found in the March 28, 2022 Disciplinary Letter. However, it is found that Montagna's 2021-2022 Summative Teacher Evaluation does not discuss or concern any disciplinary action nor any imposed sanction or penalty.

33. It is found that the section of Montagna's 2021-2022 Summative Teacher Evaluation at issue in this matter did not constitute or relate to disciplinary records and, thus, is not responsive to the request described in paragraph 6.a., above.

34. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they failed to provide the complainant with a copy of the section of Montagna's 2021-2022 Summative Teacher Evaluation, described in paragraphs 28, 32, and 33, above.

#### **April 22, 2022 McNamara Email**

35. At the hearing on this matter, the complainant contended that the April 22, 2022 McNamara Email constituted a disciplinary record that should have been provided to her in response to the request described in paragraph 6.a., above.

36. It is found that, in the April 22, 2022 McNamara Email, the Principal of IAR stated as follows:

This email is a follow up to the investigative meeting held on March 30th with regards to your attendance at a colleague's disciplinary meeting. During the investigative meeting, you admitted to pulling a paraprofessional to cover your class without my knowledge in order to attend this union meeting. Another union representative was already scheduled to attend. In the future please make sure coverage is arranged with prior approval and planning from the main office staff.

This email serves as documentation. Let me know if you have any questions or concerns.

37. The Assistant Superintendent testified, and it is found, that Mr. McNamara's personnel files contained no records responsive to the request described in paragraph 6.a., above. He further testified, and it is found, that Mr. McNamara did not receive any discipline, punishment, or adverse employment action related to the conduct described in the April 22, 2022 McNamara Email. In addition, based upon the Assistant Superintendent's testimony, it is found that the Farmington Public Schools administration typically requests teachers to behave in certain ways and to take certain actions, but such requests do not constitute discipline.

38. It is found that the April 22, 2022 McNamara Email does not constitute a disciplinary record nor relate to discipline and, thus, was not responsive to the request described in paragraph 6.a., above.

39. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they failed to provide the complainant with a copy of the April 22, 2022 McNamara Email.

**Disciplinary records for certain other employees.**

40. The complainant contended that the respondents failed to provide responsive records relating to Allyson Mooney, Griselle Aponte, Carl Shugart, Bryan Field, Sophie Nuccio, and Alana Valdez,<sup>6</sup> who the complainant contended were disciplined.

41. The Assistant Superintendent testified, and it is found, that the respondents located no disciplinary records concerning Allyson Mooney or Bryan Field in their personnel files.

42. The Assistant Superintendent testified, and it is found, that the respondents provided the complainant with the sole responsive record located within Griselle Aponte's personnel files.

43. Based upon the testimony, it is found that the respondents provided the complainant with the sole responsive record located within Carl Shugart's personnel files.

44. With respect to any disciplinary records for Sophie Nuccio, the Assistant Superintendent testified, and it is found, that Ms. Nuccio had been disciplined in the spring of 2021. It is found that the request described in paragraph 6.b., above, requested, in relevant part, "[a]ny complaints and disciplinary memos for IAR faculty and staff between August 1, 2021 and July 31, 2023." Accordingly, it is found that such disciplinary record for Ms. Nuccio is outside the scope of the complainant's request described in paragraph 6.b., above, and therefore not responsive. It is further found that, based upon the testimony, no disciplinary records existed in Ms. Nuccio's personnel files for the time period of August 1, 2021 through July 31, 2023.

45. With respect to the complainant's contention that she believed that Alana Valdez had been disciplined, it is found that the respondents credibly testified that they were not aware that she received any discipline and that no disciplinary records were found within her personnel files.

**Thoroughness of the Search**

46. With respect to the search for paper records, the Assistant Superintendent testified, and it is found, that any disciplinary records for the employees identified in paragraph 6, above, are maintained in the employees' personnel files.

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<sup>6</sup> It is found that all of the individuals identified in paragraph 40, above, were employees of the Farmington Public Schools at times relevant to the complainant's request.



47. It is found that the Farmington Public Schools maintain personnel files at their Central Office and at the schools where the respective employees are employed.

48. It is found that the employees identified in the requests described in paragraph 6, above, were employees at IAR and, consequently, the building principal for IAR searched the personnel files at IAR for any responsive records.

49. It is found that, at the Farmington Public Schools' Central Office, a human resources staff member pulled the personnel files for the respective employees and the Assistant Superintendent searched each such personnel file for responsive records.

50. It is found that, given that hard copies of disciplinary records for Farmington Public Schools are located in employees' personnel files, it was reasonable for the respondents to limit their search of paper records to the personnel files.

51. It is found that the respondents conducted a reasonably thorough search for paper records.

52. It is found that the Director of Technology for the Farmington Public Schools performed an electronic search of the Farmington Public Schools' server, including emails and Google Drive. It is found that this search consisted of using the employee's name and the words "discipline" "disciplinary," and "complaint" to find any responsive records. It is found that the specific search used was "(discipline OR disciplinary OR complaint AND [employee name])."

53. It is found that the respondents did not testify as to the reasons for limiting the search terms to the employee's name and the words "discipline" "disciplinary," and "complaint."

54. It is found that not all memos and emails related to discipline would always necessarily include the words "discipline," "disciplinary," or "complaint." It is found that, based upon the definition of discipline as well as the Assistant Superintendent's testimony, discipline includes various types of actions, including reprimands, demotions, transfers, training, suspensions, or discharges/terminations. Given the availability of such other identifiers, it is found that it was not reasonable for the respondents to limit their search to "(discipline OR disciplinary OR complaint AND [employee name])."

55. It is found that the search terms used by the respondents were not reasonably calculated to locate all records responsive to the complainant's request.

56. It is found that the respondents failed to prove that they conducted a reasonably thorough search for all records responsive to the requests described in paragraph 6, above.

57. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S.

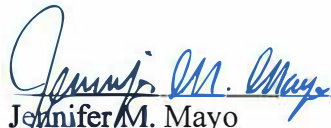
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within 60 days of the Notice of Final Decision in this matter, the respondents shall conduct a thorough electronic search for records responsive to the requests described in paragraph 6 of the findings, above, and provide the complainant with copies of such records, free of charge. In conducting such search, the respondent shall ensure that, various search terms beyond the words "discipline" "disciplinary," and "complaint," are used to capture various types of disciplinary actions as described in paragraph 54 of the findings, above.

2. Within 60 days of the Notice of Final Decision in this matter, the respondents shall provide the complainant with an affidavit attesting to the details of the search described in paragraph 1 of this order, including the search terms used, the location(s) searched, and the results of such search.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of November 20, 2024.

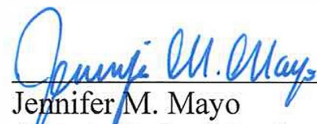
  
Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**MELISSA COMBS**, 18 Ridgeview Drive, Farmington, CT 06032

**SUPERINTENDENT OF SCHOOLS, FARMINGTON PUBLIC SCHOOLS; AND FARMINGTON PUBLIC SCHOOLS**, c/o Attorney Sarah Gleason, Shipman & Goodwin LLP, 300 Atlantic Street, 3rd Floor, Stamford, CT 06901

  
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Jennifer M. Mayo  
Acting Clerk of the Commission