

STATE OF CONNECTICUT  
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Maura Kjar,

Complainant

against

Docket # FIC 2023-0054

Legal Director, State of Connecticut,  
Connecticut Technical Education and Career  
System; and State of Connecticut,  
Connecticut Technical Education and Career  
System,

Respondents

January 24, 2024

The above-captioned matter was heard as a contested case on October 26, 2023, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

Pursuant to the Order of the hearing officer, the complainant and the respondents each submitted to the Commission an after-filed exhibit, which the hearing officer admitted, as follows: Complainant's Exhibit D (after-filed): Affidavit of Maura Kjar (one page); and Respondents' Exhibit 7 (after-filed): Affidavit of Susan Scott (three pages).

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, the complainant requested that the respondents provide her with a copy of the following records:
  - (a) All communications between from/to Kisha Richardson and Ronke Stallings 1/20 to present
  - (b) Email communications between/from/to Kisha Richardson and Jim Mindek 7/1/21-present
  - (c) Email communications between/from/to Dr. Solek and Ronke Stallings from 9/21 to present
  - (d) Help Desk ticket for Kisha Richardson 12/21 to present re: access teams

- (e) Email communications best contact by email for Kisha a/o 10/21-2/22
- (f) Email communications to Michelle Hall re: supervision and follow up to staff meetings 5/20-12/31/20
- (g) Email communications regarding missed supervisions from Kisha Richardson 5/20 to present
- (h) All email communications sent to Ellen Morris re: state cell phone, refrigerator, and attachments
- (i) Email communications regarding meetings and follow up minutes regarding staff meetings from 5/2020 through 12/21
- (j) Email communications from Kisha Richardson a/o 7/21 re: lunch and leadership
- (k) Email communication from Maura Kjar to Susan Minicucci and Kisha Richardson re: workspace a/o 5/8/20
- (l) Email communication from Sue Minicucci re: Kev group and no return call a/o 10/21
- (m) Email communications from Ms. Hankins to Kisha Richardson re: SAF and meeting request
- (n) Email communications from Terri Drouin-Guerette to Dr. Menounos and Javette Allen re: ARP ESSR, funding and Title funding 11/21-present
- (o) Past 2 years attendance report: February 2020 to February 2022; copy of PARS 1/21-6/30/2 [sic]
- (p) Email communications from Dr. Lowe re: staff issue requesting Kisha be removed from Wright Tech
- (q) Email communication from Norma Bennun re: no response return call Kisha Richardson a/o 2/21-4/21
- (r) Email communications from Ellen Morris requesting my approval to remove Kisha from Wright Tech after meeting with union reps and Ms. Hankins, Kisha Richardson, and Ms. Morris
- (s) Email communications from Nora Calderon 5/20-11/30/20 re: purchase orders and recodes being done to items that she is responsible for
- (t) Date ELR access was granted to Maura Kjar and Ronke Stallings

- (u) Email communications from Kisha Richardson re: email best contact 10/21 to present
- (v) All communications from/to Jim Mindek and Ronke Stallings from 10/1/21 to present
- (w) All communications from/to Jim Mindek to Dr. Ellen Solek pertaining to me, MK, or fiscal
- (x) All communications to/from Dr. Ellen Solek pertaining to me, MK, or fiscal
- (y) Email communication requesting to meet with Superintendent, Assistant Superintendent regarding budget process and response a/o 12/21
- (z) All communications referencing hostile work environment for past 5 years
- (aa) All communications regarding pertaining to DLT/Cabinet meetings 10/1-present including agenda items
- (bb) All communications pertaining to new process PMA approval 1/11/21
- (cc) Email communications re: approval of positions and access Joe Uccello 10/1/21-present
- (dd) Email communications pertaining to training staff on Pell
- (ee) All email communications re: Fiscal clean up at CO for February 2022 as well as to SDE (10/21-2/22)
- (ff) Email communications sent to Dr. Solek on 12/2/21 re: use of initials in PMA process
- (gg) Email communications sent to Jenna Fusco regarding use of initials a/o 1/22
- (hh) Email communications to SDE, Karen Gliha, Roger Persson, and Kathy Demsey re: CREC contract, concerns, ukg, special education positions, and response to me
- (ii) Email communications regarding overtime report to Dr. Solek, Dr. Menounos and Richard Cavallaro 10/21 to 3/15/22
- (jj) Email communications re: Sheff budget from 5/1/21 to 3/15/22
- (kk) Email communications re: CREC invoices October thru [sic] December from Richard Cavallaro a/o 2/22 and Chad Raasummaa

- (ll) Email communications from Peter Hopko regarding recodes and offset for recodes from Grant to General fund positions and responses
- (mm) Email communications from Norma Bennun re: fiscal responsibility and feeling pressured to approve positions as well as use of initials
- (nn) Email communications sent to Peter Hopko on 3/3/22
- (oo) Email communications sent to Dr. Solek re: sunshine fund and state ethics
- (pp) Email communications re: need for process a/o 2/16/22 to Jenna Fusco referencing undue badgering regarding; establishment of positions including communications referencing pressure to approve positions and lack of funding
- (qq) Email communications related to recoding of federally funded positions to the General Fund a/o 1/22 special education and certification from Bullard Havens through 6/30/21
- (rr) Email communications a/o 10/21 re: water cooler, refrigerator, microwave, and copy of purchase order, signed OF-95 and food order via p-card for District leadership team meeting
- (ss) Email communications re: state cell phone, refrigerator, food order; temporary staffing contract and Board reports a/o 10/6/21-present
- (tt) ELR communications from July 2021 to present for approved time off and including compensatory time and timesheet signature/approvals
- (uu) Fully executed CREC contract school nutrition program, signed waiver and any other documentation (purchase order, etc.)
- (vv) Signed OF-95 Covendis for project manager position purchase order, other supporting documentation and approval of selected candidate; along with any committee notes. Please include name of person that created and approved Purchase order
- (ww) Email to staff a/o 5/20 re: fiscal responsibilities and duties
- (xx) Email to Rafael Palacio, Kim Barbieri re: possible upgrade for Kisha Richardson
- (yy) Email requesting reclassification of Nora Calderon to Associate Accountant a/o 10/21
- (zz) Email informing of processes re: OF-95; travel guidelines; timesheets (OT & Compensatory)

- (aaa) Approved FMLA email a/o 2/22 from Nancy Flynn
- (bbb) 2021 W-2 for tax filing purposes
- (ccc) Copies of pay stubs while out on family medical leave
- (ddd) All communications pertaining to this administrative leave
- (eee) The past 10 years disciplinary action reports and conclusions for SDE/CTECS employees

3. It is found that, by email dated March 16, 2022, the respondents acknowledged the complainant's request. It is further found that, by email dated March 18, 2022, the respondents notified the complainant that, "due to the large volume of records and the need to gather them from different sources," they would provide records as they become available, and invited the complainant to prioritize the request if she wished to do so.

4. It is found that, by email dated March 18, 2022, the complainant provided a list of certain prioritized records she sought. It is further found that, by email dated March 19, 2022, the complainant submitted a full, prioritized list, but notified the respondents that all of her requests were "equally important."

5. It is found that, between March 16, 2022 and January 23, 2023, the respondents provided the complainant with records responsive to her request, on a rolling basis. It is further found that, on or about January 23, 2023, the respondents contacted the complainant to request additional information to assist with complying with her request.

6. By complaint filed February 10, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying her request for the records described in paragraph 2, 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 section 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 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.

9. 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.”

10. It is concluded that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-212(a), G.S.

11. At the hearing, the complainant contended that the respondents failed to promptly comply with the request described in paragraph 2, above. The complainant also contended that she needed the requested records for a matter pending with the Connecticut Commission on Human Rights and Opportunities (“CHRO”), as well as for other possible legal action, and expressed frustration regarding the length of time that had transpired without full compliance with her request.

12. The respondents did not dispute that records responsive to the complainant’s request remained outstanding, but they contended that they were working diligently to comply with the complainant’s request.

13. With respect to the complainant’s contention that the respondents failed to promptly provide responsive records, the Commission has previously opined that the meaning of the word “promptly” is a particularly fact-based question. 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 account all of the factors presented by a particular request.” The advisory opinion goes on to describe some of the factors that should be considered, including: 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.

14. It is found that the request described in paragraph 2, above, is a fifty-seven part request seeking a voluminous number of records. It is found that some of the categories of information sought are very broad or unclear. It is also found that the respondents needed to, and often did, follow up with the complainant for clarification, in order to comply with her request.

15. It is found that, during the period in which the request described in paragraph 2, above, was pending, the complainant made approximately twelve records requests to the respondents.

16. It is found that the records responsive to the request described in paragraph 2, above, are not maintained by the respondent legal director or within the legal department. It is found

that the respondents engaged the assistance of their information technology (“IT”) staff to search for and locate records responsive to the request. It is also found that the respondents engaged the assistance of various staff members from other departments, who the respondents reasonably believed maintained some of the responsive records, to search for and locate such records.

17. It is found that, at times, the respondents needed to conduct multiple searches for the same records because they were unable to locate any responsive to certain parts of the request described in paragraph 2, above, using the information provided by the complainant in her request. It is further found that oftentimes, the respondents’ searches yielded thousands of pages of potentially responsive records that needed to be reviewed (e.g., in some cases, over 100,000 pages of potentially responsive records were identified).

18. It is found that, during the time that the request in paragraph 2, above, was pending, the respondents were separating from the Connecticut State Department of Education and experienced organizational changes. It is also found that the respondent legal director experienced staff turnover within the legal department, and for a period of time she was the only staff-person within the department. It is also found that the respondent legal director asked for assistance with staffing, but none was provided.

19. Notwithstanding the findings in paragraphs 14 through 18, above, it is found that the complainant and the respondents worked together collaboratively, regularly communicated, and met virtually, in order to enable the respondents to gather additional information, as needed, to assist with complying with the complainant’s request.

20. It is found that between March 16, 2022 and April 30, 2023, the respondents made fifteen separate disclosures of responsive records to the complainant. It is also found that between June 9, 2023 and October 20, 2023, the respondents made an additional nineteen disclosures of responsive records to the complainant.

21. While the Commission recognizes that the respondents have not provided all responsive records as of the date of the contested case hearing in this matter, it is found that the respondents have been diligent in searching for, reviewing, and providing records responsive to the request. It is also found that the respondents were, and remain, committed to processing the request and providing records responsive to such request. It is further found that the delay in responding to such request was caused, in part, by the fact that some aspects of the request at issue were unclear or broad, the complainant sought a large volume of records, and filed multiple other requests. See Torlai v. FOI Commission, Docket No. CV-15-5016760-S, 2016 WL 4150549, \*8 (June 27, 2016) (noting that the complainant filed “an astonishing 42 other records requests” with the respondent department during a two year period, and concluding that “[t]his sort of deluge cannot help but overwhelm a state agency”); see also Montoya v. Superintendent of Schools, Westport Public Schools, et al., Docket #FIC 2019-0606 (June 23, 2021) (finding that “the respondents communicated with the complainant regarding [his] request and provided responsive records on a rolling basis,” “which [, coupled with the volume of requests,] indicate[d] that the respondents acted in good faith to provide records responsive to the complainant’s request . . .”).

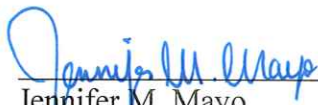
22. It is found, based on the specific facts and circumstances in this case, that the respondents have been appropriately responsive to the request described in paragraph 2, above, and have made reasonable efforts to promptly comply with such request.

23. On the basis of the record concerning the above-captioned matter, it is concluded that the respondents did not violate §§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.
2. The Commission encourages the respondents to continue to provide the complainant with copies of records responsive to the complainant's request on a rolling basis, or otherwise inform the complainant in writing of the results of their continuing search.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 24, 2024.

  
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Jennifer M. Mayo  
Acting Clerk of the Commission

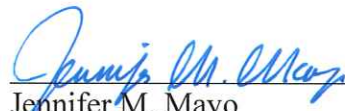


PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**MAURA KJAR**, 71 Bell Street, Glastonbury, CT 06033

**LEGAL DIRECTOR, STATE OF CONNECTICUT, CONNECTICUT TECHNICAL EDUCATION AND CAREER SYSTEM; AND STATE OF CONNECTICUT, CONNECTICUT TECHNICAL EDUCATION AND CAREER SYSTEM**, c/o Kelly E LaCluyze, Staff Attorney, 39 Woodland Street, Hartford, CT 06105

  
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Jennifer M. Mayo  
Acting Clerk of the Commission