

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Andres Ruiz,

Complainant

against

Docket # FIC 2023-0420

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

Respondents

June 26, 2024

The above-captioned matter was heard as a contested case on March 7, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint.

By order of the hearing officer, the hearing was reopened for the purpose of taking additional evidence. The reopened hearing was held on April 16, 2024, at which time the complainant and the respondents appeared and presented additional 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 July 17, 2023, the complainant requested that the respondents provide him with copies of “[t]he full contact[] information (email, address, phone {cell and landline} number, etc.) related to Dr. Toni Jones 2023 GPS [Greenwich Public Schools] Family Note and the cell and/or land line numbers associated with the phone call that immediately proceeds and/or precedes said email.” (Emphasis in original.)
3. It is found that by email dated August 17, 2023, the respondents denied the complainant’s request on the basis that the requested records were exempt from disclosure pursuant to the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g.
4. By letter of complaint filed August 17, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying the request described in paragraph 2, above.
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:

[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 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 records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that Dr. Toni Jones is the superintendent of the Greenwich Public Schools (“GPS”). It is further found that the GPS Family Note is a weekly newsletter sent by Dr. Jones via email to GPS staff, students, and families. It is found that the GPS Family Note is not sent to members of the general public.

10. At the hearing in this matter, the complainant testified that he was only seeking the email addresses of parents who receive the GPS Family Note.

11. The respondents claimed that the parent email addresses requested by the complainant are exempt from disclosure pursuant to §1-210(b)(17), G.S., which provides that public agencies are not required to disclose “[e]ducational records which are not subject to disclosure under [FERPA], 20 USC § 1232g.” Specifically, the respondents contended that parent email addresses are “directory information,” as defined by FERPA, and that they are not required to disclose such directory information under the circumstances of this case.

12. 20 U.S.C. § 1232g(b)(1) provides in relevant part that “[n]o funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein *other than directory information*, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to [certain individuals and entities not applicable here].” (Emphasis added.)

13. 20 U.S.C. § 1232g(a)(4)(A) defines “education records” to mean “those records, files, documents, and other materials which ... (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.”

14. 34 C.F.R. § 99.3 defines “directory information” to mean “information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed,” which “includes, but is not limited to, the student’s name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

15. Thus, FERPA generally prohibits the disclosure of education records or personally identifiable information contained therein, but carves out an exception for “directory information.” However, the exception allowing disclosure of directory information is subject to certain limitations set forth in FERPA and its accompanying regulations.

16. First, 20 U.S.C. § 1232g(a)(5)(B) provides that before releasing directory information, an educational agency or institution “shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent’s prior consent.”

17. Second, 34 C.F.R. § 99.37(d) provides that in providing such public notice, “an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution **must limit its directory information disclosures to those specified in its public notice ...**” (Emphasis added.)

18. As the Commission has recognized, these provisions mean that “under FERPA, an educational institution may designate the information that it considers to be directory information,” and may “adopt limited directory information policies that allow the disclosure of directory information to specific parties, for specific purposes, or both.” *Dinowitz v. Director, State of Connecticut, Office of Audit, Compliance, and Ethics, University of Connecticut, et al.*, #FIC 2012-645, ¶17 (June 26, 2013). As set forth in paragraph 17, above, when an educational institution adopts such policies, 34 C.F.R. § 99.37(d) requires the institution to limit its disclosure of directory information in accordance with such policies.

19. It is found that the respondents maintain a database of student information called Aspen, which contains information about each GPS student, including student names, dates of birth, emergency contacts, and parent contact information, including parent email addresses. It is further found that the respondents obtain such information when students register for school each

year. It is found that the GPS Family Note is sent to the parent email addresses that are maintained in the Aspen database.

20. Based on the foregoing, it is found that the student information maintained in the Aspen database is an “education record” within the meaning of 20 U.S.C. § 1232g(a)(4)(A). It is further found that the parent email addresses are “information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed,” which the respondents may designate as directory information pursuant to 20 U.S.C. § 1232g(a)(5)(B) and 34 C.F.R. §§ 99.3 & 99.37.

21. It is found that in accordance with FERPA, the respondents adopted a policy relating to the disclosure of directory information. It is further found that such policy designates “parent’s names and/or e-mail addresses” as directory information. It is also found that such policy provides that directory information shall “not be used for business, political or the furtherance of any personal gain.”

22. At the hearing in this matter, the complainant testified that he was working with a group of “political friends” to collect similar contact information from various public agencies. The complainant further testified that he and the group of friends intended to use the parent email addresses for “political messaging” to provide alternative viewpoints from what is presented in the GPS Family Note.

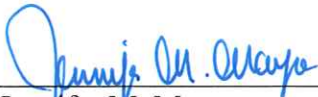
23. Based on the foregoing, it is found that the parent email addresses sought by the complainant constitute “directory information” as designated by the respondents in accordance with FERPA. It is further found that the complainant intended to use such information for a “political” purpose, and that the use of directory information for such purpose is not permitted under the respondents’ policy. It is therefore found that pursuant to 20 U.S.C. § 1232g(a)(5)(B) and 34 C.F.R. § 99.37(d), the respondents were not permitted to provide the complainant with the parent email addresses he requested.

24. Accordingly, it is concluded that the parent email addresses requested by the complainant are exempt from disclosure pursuant to §1-210(b)(17), G.S., and that the respondents did not violate the FOI Act by denying the complainant’s request for such records.

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 June 26, 2024.



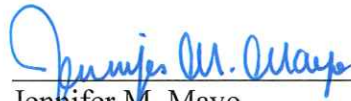
Jennifer M. Mayo
Acting Clerk of the Commission

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:

ANDRES RUIZ, 228 Hamilton Avenue, Greenwich, CT 06830

CHAIRMAN, BOARD OF EDUCATION, GREENWICH PUBLIC SCHOOLS; AND BOARD OF EDUCATION, GREENWICH PUBLIC SCHOOLS, c/o Attorney Abby Wadler, Greenwich Town Attorney's Office, 101 Field Point Road, Greenwich, CT 06830



Jennifer M. Mayo
Acting Clerk of the Commission