FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Scott Saalborn,

Complainant

against Docket #FIC 2020-0658

President, New Fairfield Volunteer
Fire Department Company A;
and New Fairfield Volunteer
Fire Department Company A,

Respondents December 17, 2025

The above-captioned matter was heard as a contested case on February 7, 2022 and January 22, 2024, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits, and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearings were conducted through the use of electronic equipment (remotely) pursuant to the Governor's Executive Order 7B (Mar. 14, 2020), which suspended the requirement to conduct public meetings in person and pursuant to §149 of Public Act 21-2 (June Spec. Sess.), respectively.

After consideration of the entire record, the following facts are found, and conclusions of law are reached:

1. The respondents appeared at the contested case hearings and contended, inter alia, that they were unclear as to whether the respondent Volunteer Fire Department was a public agency within the meaning of §1-200(1), G.S., and thus subject to the provisions of the Freedom of Information ("FOI") Act.

2. Section 1-200(1), G.S., defines a "public agency" or "agency" in relevant part as follows:

> (A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee

> of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official…

3. Section 7-314(b), G.S., provides:

> The records and meetings of a volunteer fire department which is established by municipal charter or constituted as a not-for-profit Connecticut corporation shall not be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, if such records and meetings concern fraternal or social matters. Records and meetings concerning matters of public safety, expenditures of public funds or other public business shall be subject to disclosure under said sections.

4. The Commission takes administrative notice of the respondent Volunteer Fire Department's Articles of Association, dated January 7, 1936, which provide, in relevant part, as follows:

> Be it known that we the subscribers, do hereby associate ourselves as a body politic and corporate, pursuant to the Statute Laws of the State of the Connecticut, regulating the formation and organization of corporations without Capital Stock…
>
> **ARTICLE 1:** The name, style and title of this association shall be **THE NEW FAIRFIELD VOLUNTEER FIRE COMPANY, INC**…, which will be one of the three companies of "**THE VOLUNTEER FIRE DEPARTMENT of NEW FAIRFIELD**"…Its object shall be the preservation of property from the ravages of fire or any other emergency."

(Emphasis in original).

5. The Commission also takes administrative notice of the respondent Volunteer Fire Department's tax-exempt status pursuant to 26 U.S.C. § 501(c)(3), which, in turn, recognizes the department's state law status as a not-for-profit corporation. See Regan v. Tax'n With Representation of Washington, 461 U.S. 540 (1983) (recognizing generally that an organization must first be legally formed as a nonprofit entity under state law before it can apply for federal tax-exempt status with the Internal Revenue Service); see also Orange Cnty. Agr. Soc., Inc. v. Comm'r, 893 F.2d 529, 531–32 (2d Cir. 1990) ("Section 501(a) confers tax-exempt status on corporations organized and operated exclusively for charitable, educational and other specified exempt purposes within the meaning of section 501(c)(3).... The taxpayer has the burden of demonstrating that it is entitled to tax-exempt status pursuant to section

501(c)(3).").

6. It is found that the respondent Volunteer Fire Department is a volunteer fire department constituted as a not-for-profit Connecticut corporation within the meaning of §7-314(b), G.S.

7. Accordingly, it is concluded that, except for its "fraternal or social matters," the respondent Volunteer Fire Department is subject to the requirements of the FOI Act, in accordance with §§1-200(1) and 7-314(b), G.S.

8. It is found that, by email dated December 21, 2020, the complainant requested that the respondents provide him with an electronic copy of the following records:

a. …all meeting notes, minutes, subcommittee documents, agenda, attendance, committee members positions of responsibility, vote counts, recusals, emails of meeting announcement, emails between committee members, and text messages that pertain to the matter brought to the Discipline Committee Meeting of December 15, 2020….; and

b. …the transcripts of conversations with the past President, the Chief of the Department and conversations with newly elected discipline committee members dating from August 2020 until the present. This will include images of text messages, email, and letters from both personal and department devices and [personal] and department accounts pertaining to this matter.

9. It is found that the requested records are records of the respondent Volunteer Fire Department, within the meaning of §7-314(b), G.S.

10. It is found that neither "fraternal" nor "social" are defined in §7-314(b), G.S. However, the construction of statutes, words and phrases must be construed according to their commonly approved usage. See §1-1, G.S. ("Words and phrases. Construction of Statutes").

11. The word fraternal is defined as: "Of or pertaining to brothers…[s]howing comradeship, brotherly….[o]f or constituting a fraternity." The American Heritage Dictionary of the English Language (5th ed. 2019).

12. Fraternize is defined as: "[T]o associate or mingle as brothers or on fraternal terms…to be friendly or amiable." Webster's Collegiate Dictionary (11th ed. 2019).

13. Fraternity is defined as: "A body of people associated for a common purpose or interest….[T]he quality or condition of being brothers; brotherliness…." The American Heritage Dictionary of the English Language (5th ed. 2019).

14. It is found that a request for records concerning a disciplinary matter involving a volunteer fire fighter within a volunteer fire department do not pertain to "fraternal or social matters"; rather, it is found that such records concern "matters of public safety, expenditures of funds or other matters of public safety," within the meaning of §7-314(b), G.S.

15. It is therefore concluded that the records requested by the complainant in this matter are subject to disclosure under the FOI Act.

16. It is found that, by email dated December 24, 2020, the respondent President acknowledged the complainant's request and further stated:

> …we had a meeting on 12/15/2020 to discuss the letters that were written by three active members; as previously discussed, there were some accusations that were both sensitive and sexual in nature. I contacted you via email on 12/2, 12/7, 12/8, 12/10, and finally on 12/14, all with the hope of meeting with you first to avoid a disciplinary committee meeting. Since you insisted that the matter was closed and refused to discuss it with me, I did look for any official record of it being settled. Finding none, the Disciplinary Committee met on 12/15/20. At the meeting we made a decision, based on the information available to us, in order to protect the members involved. This matter and the investigation is ongoing, as I indicated in my email to you on 12/15/20, the Disciplinary Committee would be contacting you with next steps. If you are now willing to discuss this matter and hopefully provide some insight, we welcome the opportunity. We would like to meet with you, next week if possible? At that time, we will read the letters to you and we welcome your responses. Our goal is to close this matter in a way that will protect and respect all the members involved as well as maintain the integrity of the [department].

17. By email dated December 27, 2020 and filed December 28, 2020[1], the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide him with a copy of the requested records.

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[1] On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction over this matter.

18. At the time of the request, §1-200(5), G.S., provided:

> "[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, printed, photostated, photographed or recorded by any other method.[2]

19. 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.

20. 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."

21. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

22. At the hearings on this matter, although the complainant conceded that he had received records responsive to his request, he challenged the redactions in certain records.

23. It is found that the complainant was a volunteer fire fighter with the respondent Volunteer Fire Department.

24. It is found that, in 2020, after responding to a fire call, the complainant approached a fellow fire fighter and commented to the fellow fire fighter that, years ago, when the fellow fire fighter's son was a minor, his son was sexually groped by an adult. It is found that, following the complainant's comment, the fire fighter to whom the comment was addressed, the fire fighter's son, and another member of the department each wrote a letter indicating that the complainant's claim of sexual misconduct was false (the "three letters").

25. It is found that the current President of the respondent Volunteer Fire Department, who appeared and testified at the hearings on behalf of the respondents, attempted to meet with the complainant multiple times in December 2020 to discuss the underlying comment and the three letters that had been submitted to the department. It is found that, because the

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[2] Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of "public records or files" to also include data or information that is "videotaped."

complainant contended that the matter had been closed by the previous President of the respondent Volunteer Fire Department, he refused to "participate in the matter" with the current President.

26. It is found that on December 15, 2020, the disciplinary committee of the respondent Volunteer Fire Department convened a meeting and voted to suspend the complainant from his position as a volunteer fire fighter pending further investigation. It is found that the request set forth in paragraph 8, above, was made six days after the December 15, 2020 meeting of the disciplinary committee.

27. It is found that, by email dated December 24, 2020, the current President of the respondent Volunteer Fire Department informed the complainant that he wanted to provide the complainant with an opportunity to read and inspect the three letters referenced in paragraph 24, above. There is no evidence in the record that the complainant met with the current President to review and inspect the letters at any time during 2020.

28. It is found that, on January 26, 2021, the complainant attended a second meeting of the disciplinary committee of the respondent Volunteer Fire Department, at which time he read and inspected the three letters referenced in paragraph 24, above. It is further found that the letters were not redacted.

29. At the first hearing on this matter, the complainant contended that after he reviewed and inspected the letters on January 26, 2021, he took pictures of the letters with his cell phone. He contended, however, that the disciplinary committee members "intimidated" him into deleting the pictures and that he did so and left the meeting. Finally, the complainant contended that one of the letters that he read and inspected at the January 26, 2021 meeting was not an "original" letter.

30. It is found that, on March 23, 2021, the respondents provided the complainant with copies of the letters that he had read and inspected on January 26, 2021, with the names of the authors redacted. It is further found that, at or around the same time, the respondents also provided the complainant with the minutes from the December 15, 2020 meeting of the disciplinary committee, with the same names—which had been inadvertently included in the minutes—redacted. It is further found that the members of the disciplinary committee searched their emails and text messages for records responsive to the complainant's request. It is further found that certain members of the disciplinary committee located responsive emails, which were provided to the complainant with the same names redacted; no member of the disciplinary committee located any responsive text messages. Finally, it is found that the current President provided the complainant with a responsive text message between him and the fire chief.

31. At the hearings on this matter, the complainant contended that the respondents violated the FOI Act when they failed to provide him with a copy of one of the original letters. In addition, the complainant challenged the redactions contained in: (1) the three letters referenced in paragraph 24, above; (2) the minutes from the December 15, 2020 meeting referenced in paragraph 30, above; and (3) the disciplinary committee members' emails

referenced in paragraph 30, above. Finally, the complainant contended that the respondents failed to provide him with the responsive records promptly.

32. Regarding the contention that one of the letters that the respondents provided to the complainant was not an original letter, it is found that, shortly after receiving the three letters at issue in this case, the respondents misplaced one of them. It is further found that when the respondents realized that a letter had been misplaced, they contacted the author and requested that he re-write the letter. It is found that the individual re-wrote the letter and the respondents provided the complainant with access to, and subsequently a copy of, the re-written letter, with the author's name redacted. It is further found that the respondents subsequently located and provided the complainant with a copy of the original letter as well, with the author's name redacted.

33 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 provided the complainant with access to, and subsequently a copy of, the re-written letter.

34. The respondents contended that they redacted the names of individuals associated with the minor child, as well as any reference to the minor child, from the responsive records pursuant to §1-210(b)(2), G.S., and the Supreme Court's decision in Rocque v Freedom of Info. Comm'n, 225 Conn. 651 (2001) ("Rocque").

35. Section 1-210(b)(2), G.S., provides in relevant part that nothing in the FOI Act shall require disclosure of ". . . personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy . . . ."

36. The Supreme Court set forth the test for the exemption contained in §1-210(b)(2), G.S., in Perkins v. Freedom of Info. Comm'n, 228 Conn. 158, 175 (1993) (Rocque"). The claimant must first establish that the files in question are personnel, medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy. In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: first, that the information sought does not pertain to legitimate matters of public concern, and second, that such information is highly offensive to a reasonable person.

37. Section 1-214, G.S., provides, in relevant part, that:

> (b)(1) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files and the agency reasonably believes that the disclosure of such records would legally constitute an invasion of privacy, the agency shall immediately notify in writing (A) each employee concerned….

(b)(2) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files, and the agency reasonably believes that the disclosure of such records would not legally constitute an invasion of privacy, the agency shall first disclose the requested records to the person making the request to inspect or copy such records and subsequently, within a reasonable time after such disclosure, make a reasonable attempt to send a written or an electronic copy of the request to inspect or copy such records, if applicable, or a brief description of such request, to each employee concerned and the collective bargaining representative, if any, of each employee concerned.
(b)(3) Nothing in this section shall require an agency to withhold from disclosure the contents of personnel or medical files and similar files when it does not reasonably believe that such disclosure would legally constitute an invasion of personal privacy.

(c) A public agency which has provided notice under subdivision (1) of subsection (b) of this section shall disclose the records requested unless it receives a written objection from the employee concerned or the employee's collective bargaining representative, if any, within seven business days from the receipt by the employee or such collective bargaining representative of the notice or, if there is no evidence of receipt of written notice, not later than nine business days from the date the notice is actually mailed, sent, posted or otherwise given. Each objection filed under this subsection shall be on a form prescribed by the public agency, which shall consist of a statement to be signed by the employee or the employee's collective bargaining representative, under the penalties of false statement, that to the best of his knowledge, information and belief there is good ground to support it and that the objection is not interposed for delay. Upon the filing of an objection as provided in this subsection, the agency shall not disclose the requested records unless ordered to do so by the Freedom of Information Commission pursuant to section 1-206. Failure to comply with a request to inspect or copy records under this section shall constitute a denial for the purposes of section 1-206. Notwithstanding any provision of this subsection or subsection (b) of section 1-206 to the contrary, if an employee's collective bargaining representative files a written objection under this subsection, the employee may subsequently approve the disclosure of

the records requested by submitting a written notice to the public agency.

38. It is found that the respondents immediately notified the authors of the three letters that the complainant had requested a copy of such letters (and other responsive records containing their names), as required by §1-214(b)(1), G.S. It is further found that each author filed a written objection to the disclosure of his or her name contained within the responsive records, pursuant to §1-214(c), G.S.

39. It is found that the responsive records are "personnel" or "similar" files within the meaning of §1-210(b)(2), G.S.

40. In addition to the provisions of §1-210(b)(2), G.S., and applicable law set forth in paragraphs 36 and 37, above, in Rocque, the Connecticut Supreme Court held that the identity of a sexual harassment complainant and sexually explicit or descriptive detail of the harassment within investigative records were not legitimate matters of public concern because the disclosure of such information would do nothing to assist in the public's understanding or evaluation of a public agency's investigative process. The Court further held that disclosure of such information would be highly offensive to a reasonable person.

41. Based upon the respondents' testimony, it is found that the redacted portions of the responsive records consist of the identity of a minor child who was allegedly sexually harassed and/or assaulted and the names of two other adult individuals (including the minor child's father) who can be linked to the minor child, within the meaning of Rocque. It is further found that the disclosure of such portions of the records would constitute an invasion of personal privacy, within the meaning of §1-210(b)(2), G.S.

42. Accordingly, it is concluded that the redacted portions of the records are permissively exempt from disclosure pursuant to §1-210(b)(2), G.S. It is further concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., when they declined to disclose the responsive records to the complainant with the name of the minor child and the names of the authors of the letters unredacted.[3]

43. Finally, with regard to whether the respondents have acted promptly in responding to the instant request, this Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of records requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the records; 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 loss of the personnel

[3] While the Commission has determined in this matter that the respondents inadvertently included in the December 15, 2020 meeting minutes of the disciplinary committee, the names of the individuals who wrote letters concerning the underlying incident and the name of a minor child, the respondents are cautioned that, going forward, they should be mindful not to include exempt or potentially exempt information in their minutes.

time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

44. It is found that, upon receipt of the complainant's request for records in this case, the current President, who had been in his position for less than a month at that time, contacted the town to inquire whether the town attorney could provide him with legal assistance and guidance concerning responding to the request. It is found that the town informed the current President that he would not be able to rely on the town attorney for legal assistance and that if he required legal assistance, he would have to engage outside counsel. Thereafter, at the next regular meeting of the respondent Volunteer Fire Department, it is found that the current President requested that the department approve funds so that he could engage outside counsel to assist him with responding to the complainant's request, which was approved; and that the President did in fact engage outside counsel to assist him with this matter.

45. It is further found that, by the time of the first contested case hearing on this matter, although the respondents were uncertain as to whether they were required to comply with the requirements of the FOI Act, they had conducted a thorough search for responsive records and had provided the complainant with all responsive records containing only the minimal redactions described in paragraph 34, above.

46. Based on the facts in this case, it is found that the respondents provided the complainant with the requested records "promptly."

47. Accordingly, it is concluded that the respondents did not violate the promptness requirements of §§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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 17, 2025.

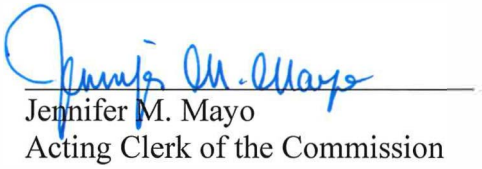
Jennifer M. Mayo
Acting Clerk of the Commission

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:

SCOTT SAALBORN, 3 Jewel Lane, New Fairfield, CT 06812

PRESIDENT, NEW FAIRFIELD VOLUNTEER FIRE DEPARTMENT COMPANY A; **AND NEW FAIRFIELD VOLUNTEER FIRE DEPARTMENT COMPANY A**, c/o Attorney Jonathan C. Zellner, Ryan Ryan Deluca LLP, 707 Summer Street, Stamford, CT 06901



Jennifer M. Mayo
Acting Clerk of the Commission

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