FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by FINAL DECISION

Conner Drigotas and Connecticut Inside Investigator,

Complainants

against Docket #FIC 2025-0036

Director of Public Records, State of Connecticut, University of Connecticut; and State of Connecticut, University of Connecticut,

Respondents December 17, 2025

The above-captioned matter was heard as a contested case on May 21, 2025, at which time the complainants 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 email dated September 12, 2023, the complainants requested copies of the following:

> "all records pursuant to any investigation into sexual misconduct of any faculty or staff member from January 1, 2018 to present. I am also requesting all disciplinary files for any individuals who were the subject of those investigations from any date, as well as any employment contracts or agreements those individuals may have signed."

3. It is found that, by email dated September 12, 2023, the respondents acknowledged the complainants' records request and informed Mr. Drigotas that his request would be entered into their system for processing.

4. It is found that, by email dated September 27, 2024, Mr. Drigotas requested an update from the respondents on the status of his request and noted that it had been over a year since his request described in paragraph 2, above.

5. It is found that, by email dated October 7, 2024, the respondents informed Mr. Drigotas that they were working on his request and hoped to provide him with all responsive records "soon".

6. It is found that, by email dated January 6, 2025, Mr. Drigotas, again, requested an update from the respondents on the status of his request.

7. By letter of complaint, dated and filed January 15, 2025, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records described in paragraph 2, above.

8. 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.

9. 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. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void….

10. 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."

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

12. It is found that, by email dated March 4, 2025, (540 days after the complainants' initial records request on September 12, 2023 ("September 12th request")) the respondent Director of Public Records, Megan Philippi, ("Director") provided the complainants with twenty-four investigation reports and thirteen corresponding disciplinary reports, consisting of

approximately 728 pages of responsive records. It is also found that the Director informed the complainants that redactions had been made to student names and personally identifying information in such responsive records.

13. It is found that, by email dated March 10, 2025, Mr. Drigotas informed the Director that he had reviewed the records described in paragraph 12, above, and was concerned that responsive records had been withheld. It is also found that Mr. Drigotas provided a list of specific items that were not provided by the respondents but were referenced in some way by the responsive reports he received and informed the respondents that he believed such missing records were both responsive to his request, described in paragraph 2, above, and were maintained by the respondents.

14. It is found that, by email dated March 11, 2025, the Director acknowledged Mr. Drigotas' concerns, described in paragraph 13, above, and informed him that she would look into such concerns.

15. It is found that, by email dated March 12, 2025, Mr. Drigotas informed the Director that he noticed the respondents had marked the status of the complainants' records request as "complete" in their system and requested that the respondents change such status, as the complainants considered the records request to be ongoing. It is found that the respondents, subsequently, changed the status of the request.

16. It is found that, by email dated May 8, 2025, the Director provided additional records responsive to the specific concerns raised in Mr. Drigotas' email described in paragraph 13, above. It is also found that, by such email on May 8, 2025, the Director informed the complainants that redactions were made to student names and personally identifying information on such records and that the respondents were still working on compiling additional documents.

17. It is found that, by email dated May 19, 2025, the Director provided additional records responsive to the concerns raised in Mr. Drigotas' email described in paragraph 13, above. It is also found that, by such email on May 19, 2025, the Director informed the complainants that redactions were made to student names and personally identifying information on such records, that the respondents do not maintain records responsive to certain of the concerns raised, and that the respondents were still working on compiling additional documents.

18. At the hearing on this matter, the complainants alleged that it had been 617 days since the September 12th request, and they still had not received all responsive records. The complainants also alleged that the respondents failed to disclose responsive records promptly and failed to disclose all responsive records, challenged the redactions claimed on responsive records the respondents provided, and requested the imposition of a civil penalty against the respondents.

**Scope of the Complaint & Provision of Records**

19. At the hearing on this matter, the respondents argued that the complainants' follow-up email, described in paragraph 13, above, was a supplemental request that is outside the scope of the complaint at issue here.

20. The Director testified, and it is found, that she disclosed to the complainants twenty-four final reports from the Office of Institutional Equity ("OIE") and thirteen disciplinary reports from the Office of Faculty & Staff Labor Relations ("Labor Relations"). The Director testified that OIE reports are comprehensive reports that summarize the investigations into sexual misconduct at issue here. The Director also testified that, at the time that she provided responsive reports to the complainants, she was aware that such responsive reports reference additional records that the respondents were not providing to the complainants. The Director further testified that because the OIE reports summarize such additional records, she had no duty to disclose any such additional records and believed that the respondents had disclosed all responsive records on March 4, 2025.

21. It is found that, upon disclosing the responsive reports described in paragraph 20, above, the respondents internally considered the complainants' records request completed. It is also found that, when the complainants raised additional concerns, as described in paragraph 13, above, the respondents treated such concerns as new FOI requests but did not inform the complainants of this decision. It is further found that, when the respondents changed the status of the complainants' request from "complete to "open", based upon Mr. Drigotas' request, the respondents did not inform the complainants that they still considered the matter closed.

22. At the hearing on this matter, the respondents complained that the complainants' request described in paragraph 2, above, was overly broad and that the respondents are not "mind readers."

23. It is found, however, that upon cross-examination, the Director admitted that Complainants' Exhibit D was responsive to the complainants' records request described in paragraph 2, above, and was not disclosed to the complainants until after Mr. Drigotas raised concerns in his March 10th email, described in paragraph 13, above. The Director also testified that there are potentially hundreds of additional records for each of the twenty-four OIE final reports that the respondents have not provided to the complainants. The Director further testified that, unless the complainants specifically identify any such additional records as outstanding, the respondents will not disclose such records.

24. It is found that the complainants requested "all records pursuant to any investigation into sexual misconduct of any faculty or staff member from January 1, 2018 to present." (Emphasis added). It is therefore found that the respondents' unilateral decision to narrow such request to only responsive investigation reports and disciplinary reports is unreasonable. Consequently, it is found that the complainants' follow-up request, described in paragraph 13, above, and their complaints regarding outstanding records that the respondents have not disclosed, fall squarely within the scope of the complaint at issue here and are not new requests.

25. To the extent that the respondents argue they can produce summaries of requested records as a substitute for disclosing the actual records requested, this Commission rejects such argument outright. To the extent the respondents believe the burden is on the complainants to identify outstanding records in order for the respondents to provide such responsive records, this Commission, likewise, rejects such argument outright.

26. It is found, based upon the findings in paragraphs 19 through 25, above, that the respondents failed to prove that they conducted a diligent and thorough search for the requested records, described in paragraph 2, above, and failed to provide all responsive records to the complainants.

27. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide all responsive records to the complainants.

**Promptness**

28. With regard to the complainants' allegation that the respondents failed to disclose records promptly, this Commission takes guidance from 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).

29. In Advisory Opinion #51, 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 ("DESPP v. FOI Comm'n"), 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."

30. 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.

31. With regard to the factors listed above, it is found that, as of the hearing on May 21, 2025, the respondents had provided approximately 823 pages of responsive records. It is also found, however, that a significant number of pages of responsive records are likely still outstanding and have yet to be disclosed.[1]

32. It is found that, between the date of receiving the complainants' request on September 12, 2023 and October 25, 2023, the Director contacted OIE regarding such request and collected the twenty-four OIE reports from OIE. The Director testified that OIE de-identified any student names prior to producing such OIE reports to the Director and that the Director, subsequently, redacted both the already de-identified information and any personally

[1] See paragraphs 19 through 27, above.

identifiable information.[2] It is also found that, on or around October 25, 2023, the Director then sent the redacted OIE reports to Labor Relations so that Labor Relations could conduct a search of its records for responsive disciplinary files.

33. The respondents submitted into evidence an affidavit of the Labor Relations Administrator, Debra Lucey, who attested that upon receipt of the complainants' records request from the Director, she engaged in "good faith and diligent efforts" to identify responsive records.[3] Administrator Lucey also attested that she had to run multiple searches in order to locate responsive investigation files because the file database used by Labor Relations does not allow users to search using multiple criteria and she could not simply search for "sexual misconduct." Administrator Lucey further attested that she identified thirteen sexual misconduct investigations with disciplinary documents, which she compiled and sent for review and redaction.

34. In her affidavit, Administrator Lucey attested to the significant competing duties of her office and certain staffing issues that arose during the calendar year of 2024. Administrator Lucey further attested the following:

> The FOIA request submitted was broad in scope (January 1, 2018 through September 2023) and involved a substantial volume of records, including emails, internal investigation reports, and files located across multiple departments and databases. The process of identifying, retrieving, reviewing, and compiling responsive records was complex and time-consuming.
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> In 2024, [Labor Relations] faced significant staffing shortages and resource limitations, including loss of key personnel and competing operational demands. The search was conducted within the reasonable constraints of available personnel, technical capacity, and resources. At all times, I acted in good faith and compliance with the requirements of the applicable law.
>
> As a result of this diligent effort, [Labor Relations] has identified and produced all responsive disciplinary records located through the above-described process.

35. It is found, however, that Administrator Lucey did not attest as to how much time she actually spent searching and retrieving responsive records or when she began working on the complainants' request. It is also found that Administrator Lucey did not attest to any staffing shortages that may have occurred from October of 2023 through December 31, 2023. It is also found that Administrator Lucey did not attest as to why any of the other "at most six attorneys

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[2] The Commission notes its confusion as to why the respondents felt it necessary to redact de-identified information from such reports and are aware of no exemption in the FOI Act or federal law that would permit such redactions.

[3] The Commission notes that, during the May 21st contested case hearing, counsel for the respondents represented that Administrator Lucey was unavailable to testify on that day. The Commission also notes that the respondents did not request that the May 21st contested case hearing be postponed.

and two administrative staff" members could not have assisted her in personally searching for responsive disciplinary reports. It is further found that, although Administrator Lucey attested as to the complicated search necessary to locate responsive records, she only located thirteen sexual misconduct investigations that resulted in responsive disciplinary records, and each of the thirteen sexual misconduct investigations correlated to one of the twenty-four redacted OIE reports provided to her by the Director on or around October 25, 2023.

36. At the hearing on this matter, the Director testified that Labor Relations is a small office, which lost key employees during the applicable time period and is responsible for labor relations for the entire University of Connecticut system. The Director also testified that she emailed Administrator Lucey every couple of months to check on the status of her search for responsive records.

37. It is found that, in November of 2024, more than a year after receiving notice of the complainants' records request, Administrator Lucey provided thirteen responsive disciplinary reports to the Director.

38. It is found that, upon receipt of responsive records from Administrator Lucey, it took the Director approximately four months to review such disciplinary reports for personally identifying information, make redactions, and, ultimately, on March 4, 2025, provide such redacted disciplinary reports to the complainants. The Director testified that only one other staff member and herself handle FOI Act requests for the entire University of Connecticut system, which includes five separate campuses. The Director also testified that the respondents receive approximately 500 to 600 FOI requests per year and that she works on approximately twelve such requests per day.

39. It is concluded, based upon all of the foregoing, that the respondents violated the promptness requirements in §§1-210(a) and 1-212(a), G.S. In reaching this conclusion, the Commission notes that the respondents took 540 days to produce approximately 728 pages of responsive records, which did not represent all responsive records, and that as of the date of the contested case hearing on this matter, there were likely hundreds, if not thousands, of undisclosed, responsive records that the respondents had not located. Consequently, it is clear that the respondents did not treat their obligations under the FOI Act as a "primary duty" of the University of Connecticut, "on par with the [agency's] other significant duties" in accordance with the court's decision in DESPP v. FOI Comm'n.

**In Camera Records**

40. At the hearing on this matter, the respondents represented that they would object to an order of the hearing officer to submit unredacted records for in camera inspection. The respondents argued that the responsive records are "education records" as contemplated by the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. §1232g. The respondents further argued that they possess a guidance letter from the federal Department of Education ("DOE") that asserts it would be a violation of FERPA for the respondents to provide this Commission with copies of unredacted education records for in camera inspection. It is found

that such guidance letter from DOE, dated January 7, 2019, was entered into evidence as Respondents' Exhibit 7 ("DOE guidance letter").

41. It is found that, on June 5, 2025, the hearing officer ordered the respondents to submit to the Commission for in camera inspection an unredacted copy of all responsive records that had been disclosed to the complainants ("in camera order"). It is also found that the respondents were ordered by the hearing officer to promptly file notice of any objection to such in camera order and, within three weeks of the filing of such objection, file a legal brief providing the basis for the objection.

42. It is found that, on June 9, 2025, the respondents filed notice of their objection to the in camera order.

43. It is found that, on June 26, 2025, the respondents submitted to the Commission a redacted copy of the records described in paragraph 41, above, for in camera inspection. It is also found that the respondents submitted a corresponding in camera index. The in camera records shall be identified hereinafter as IC-2025-0036-1 through IC-2025-0036-823.

44. On the in camera index, the respondents contended that portions of the in camera records are exempt from disclosure under §§1-210(a),[4] 1-210(b)(2), 1-210(b)(11), and 1-210(b)(17), G.S. By email, dated July 1, 2025, the respondents submitted a corrected in camera index, in which they contended that certain portions of the in camera records are exempt from disclosure pursuant to §1-210(b)(1), G.S.

**Respondents' Objection to In Camera Order**

45. It is found that, on June 30, 2025, pursuant to the order of the hearing officer, the respondents submitted a legal brief providing the basis for their objection to the submission of unredacted copies of certain records for in camera inspection. The respondents contended that certain redacted information in the in camera records is exempt from disclosure pursuant to §1-210(b)(17), G.S., because such in camera records contain personally identifiable information of a student or students and that the in camera records are "directly related" to such student(s). The respondents, therefore, argued that all the in camera records constitute "education records" as contemplated by FERPA, and the respondents are prohibited from providing unredacted copies of such records to the Commission.

46. Section 1-210(b)(17), G.S., provides that disclosure is not required of "[e]ducation records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g."[5]

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[4] Due to the findings and conclusions in paragraphs 45 through 56, below, and the fact that the respondents did not claim another federal law applies to the in camera records, here, the Commission need not further address the respondents' claim that the in camera records are exempt from disclosure pursuant to §1-210(a), G.S., herein.

[5] The Commission notes that §1-210(b)(17), G.S., was amended pursuant to P.A. 25-124, §1, which changed "[e]ducational records" to "[e]ducation records" and added the language: "revised to January 3, 2012".

47. "[E]ducation records" is defined at 20 U.S.C. §1232g(a)(4)(A), as 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. Therefore, as a threshold matter the records must be found to be "directly related to a student."

48. The respondents cited no Connecticut court decision interpreting the phrase "directly related to a student," as referenced in 20 U.S.C. §1232g(a)(4)(A), in the context of disclosure of investigations into sexual misconduct of faculty or staff.

49. In their legal brief, the respondents, instead, relied upon the DOE guidance letter advising the respondents not to submit unredacted "education records" to this Commission for in camera inspection. The respondents also relied upon a separate guidance letter from DOE addressed to the University of Oregon, dated November 6, 2015 ("Oregon guidance letter"), in which the DOE asserted that complaints and investigation reports resulting from such complaints are "education records", within the meaning of FERPA, because they are "directly related" to the student complainant. The respondents argued that, based upon the DOE guidance letter and the Oregon guidance letter, the responsive OIE reports and disciplinary reports submitted for in camera inspection in this matter are "education records" because they are "directly related" to student(s) and, therefore, the respondents are prohibited from submitting such reports to the Commission unredacted. Lastly, the respondents argued that the Commission should defer to the federal guidance provided by the DOE when interpreting FERPA because such interpretation is not unreasonable and because the DOE is the promulgating agency interpreting its own regulations.

50. The Commission begins its analysis by stating that the general rule under the FOI Act is disclosure; exceptions to this rule must be narrowly construed, and the burden of establishing the applicability of an exemption clearly rests upon the party claiming the exemption. New Haven v. FOI Comm'n, 205 Conn. 767, 775 (1988); Ottochian v. FOI Commission, 221 Conn. 393 (1992). "This burden requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested." Director, Retirement & Benefits Service v. FOI Comm'n, 256 Conn. 764, 773 (2001), citing New Haven, supra. Nonetheless, the Commission agrees that it should, generally, defer to a promulgating agency's interpretation of its own statutes, as long as that interpretation is not unreasonable. See Comm'r of Corr. v. FOI Comm'n, 307 Conn. 53 (2012).[6] The Commission also notes, however, that "[a]ny [state] agency rule or regulation, or part thereof, that conflicts with the provisions of [the FOI Act] or diminishes or curtails in any way the rights granted by this subsection shall be void." See §1-210(a), G.S.

[6] The Commission also notes that in the context of federal administrative law, the United States Supreme Court recently significantly curtailed the level of deference federal courts may and can give to a federal agency's interpretation of ambiguous statutes and ruled that federal courts must exercise their own judgment regarding whether the agency acted within its statutory authority. See Loper Bright Enterprises, v. Raimondo 603 U.S. 369 (2024).

51. It is found that the DOE guidance letter used by the respondents as justification for their position, relies upon an erroneous premise. At the outset, such letter provides the following: "[the respondents] state that there is no dispute between the University and the Commission that the records in question are 'education records' as defined by FERPA. 34 CFR § 99.3." See DOE guidance letter, ¶1. It is found that, although the respondents argued that the OIE reports and disciplinary reports are "education records" within the meaning of FERPA, that does not mean "there is no dispute" as to whether such records are, in fact, "education records".

52. Courts in other jurisdictions have examined the phrase "directly related to a student," and concluded that records of complaints and investigations of misconduct by teachers, administrators or staff, in cases where students are the alleged victims and witnesses and therefore are identified in the records, are not education records protected by FERPA, because they do not contain information "directly related to a student." Rather, such disciplinary records are "directly related" to the subject of the complaint, and only tangentially related to the student. See e.g., Dahmer v. W. Kentucky Univ., 2019 WL 1781770 (W.D. Ky. 2019) (student complaints of sexual or gender-based discrimination and any documentation relating to those complaints are not "education records" protected by FERPA because they are records of fact and discipline against individuals associated with the institution); Cummerlander v. Patriot Preparatory Academy, 2013 WL 12178140 (S.D. Ohio 2013) (student witness statements are not education records because they do not directly relate to student witnesses but rather to the person who is the subject of the complaint); Briggs v. Board of Trustees Columbus State Community College, 2009 WL 2047899 (S.D. Ohio 2009) (records of student complaints about a teacher are "directly related" to the teacher and not to the students who complained); Young v. Pleasant Valley School District, 2008 WL 11336157 (M.D. Pa. 2008) (emails containing complaints about a teacher are not "directly related to a student," but rather are directly related to the teacher and only tangentially related to the student); Wallace v. Cranbrook Educational Community, 2006 WL 2796135 (E.D. Mich. 2006) (student statements alleging misconduct by a teacher are not "education records" because they are not "directly related to a student"); Baker v. Mitchell-Waters, 160 Ohio App.3d 250 (2005) (record of allegations of abuse of students by teachers do not directly relate to students); Ellis v. Cleveland Municipal School District, 309 F.Supp.2d 1019 (N.D. Ohio 2004) (records of allegations of teacher misconduct directly relate to the activities and behaviors of the teachers and do not directly relate to the students involved). But see Rhea v. District Board of Trustees of Santa Fe College, 109 So.3d 852 (Fla. Dist. Ct. App. 2013) (email written by student complaining about inappropriate classroom behavior of teacher is an "education record" protected by FERPA because the record is "directly related" to the student, even though it may also be "directly related" to the teacher).

53. In prior Commission decisions, the Commission employed a broader construction of the term "education records," largely relying upon the phrase "Personally Identifiable Information" as set forth in the regulations at 34 CFR §99.3, to identify what information is protected under FERPA. Utilizing that analysis, if a record "personally identified" a student, the Commission generally concluded that the record was exempt under FERPA and that the agency was prohibited from disclosing it. See Jeffrey Roets and the Wethersfield Federation of Teachers v. Superintendent of Schools, Wethersfield Public Schools, et al., Docket #FIC 2010-069 (portions of report of investigation into allegations of misconduct by school officials that personally identify a student are protected by FERPA); Jay Hardison v. Superintendent of

Schools, Darien Public Schools, et al., Docket #FIC 2016-0853 (written witness statements made in connection with an investigation into an incident involving school football coach and a student, wherein student is personally identified in the statements, are records that are "directly related to a student" and therefore are "education records" protected by FERPA); Jay Hardison v. Superintendent of Schools, Darien Public Schools, et al., Docket #FIC 2017-0036 (video depicting incident in which school football coach struck a student, where video was part of misconduct investigation, constituted an "education record" of the student that was protected under FERPA, as it targeted an already identified student and contained information that personally identified that student and other students); but see, e.g., Linda Lambeck and the Connecticut Post v. Chairman, Board of Education, Bridgeport Public Schools, et al., Docket #FIC 2013-677 (video depicting school principal dragging a student, wherein student is not personally identifiable, is not "directly related to a student" and therefore is not an "education record" protected under FERPA).

54. More recently, however, looking to burgeoning and relevant law in other jurisdictions, this Commission employed the narrower analysis utilized in those decisions cited in paragraph 52, above, and has expressly rejected the broader analysis described in paragraph 53, above. See Joe Wojtas and The Day v. Superintendent of Schools, Stonington Public Schools, et al., Docket #FIC 2019-0493 (written correspondence from a principal to the superintendent, entitled "Investigation of Student Allegation of Inappropriate Contact by a Teacher", are not "directly related to the student" and therefore are not "education records" protected by FERPA); Christopher Peak and New Haven Independent v. Principal, Amistad Academy, et al., Docket #FIC 2019-0369 (teacher/employee disciplinary records regarding allegations of misconduct relate directly to such teacher/employee discipline and therefore are not "directly related to a student" and not "education records" protected by FERPA); Jay Hardison v. Superintendent of Schools, Darien Public Schools, et al., Docket #FIC 2017-0615 (parent emails that relate directly to complaints about school procedures, are not "directly related to a student" and therefore are not "education records" protected by FERPA). Upon careful consideration, and a review of the current relevant law on the topic, it is found that the records of investigations into sexual misconduct of faculty or staff in this case, identified in paragraph 43, above, are not "education records" because they relate directly to the faculty or staff being investigated and are not "directly related to a student."

55. It is therefore found, in the first instance, that the respondents' reliance on the DOE guidance letter is misplaced because there is a dispute as to whether the in camera records at issue, here, are "education records." It is also found that this Commission, based upon relevant federal court precedent, has already ruled that records of a similar nature to the in camera records in this matter are not "education records" pursuant to FERPA. It is therefore found that FERPA does not apply to such records.

56. Consequently, it is found that the records described in paragraphs 43 and 45, above, are not exempt from disclosure pursuant to §1-210(b)(17), G.S.[7]

[7] It is found that because FERPA does not apply to the in camera records, the Commission declines to address the respondents' claim that they are prohibited from submitting unredacted copies of "education records" to the Commission for in camera inspection.

**Section 1-210(b)(11), G.S.**

57. With regard to the respondents' claim that certain portions of the in camera records, as indicated on the in camera index, and as identified in paragraph 44, above, are exempt from disclosure pursuant to §1-210(b)(11), G.S., such provision provides, in relevant part, that disclosure is not required of:

> [n]ames or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age ….

58. It is concluded that the names and addresses of students, redacted by the respondents in the in camera records, are permissibly exempt from disclosure pursuant to §1-210(b)(11), G.S., and that the respondents did not violate the FOI Act by redacting that information.[8]

**Section 1-210(b)(1), G.S.**

59. With regard to the respondents' claim that certain in camera records, as indicated on the corrected in camera index, and as identified in paragraph 44, above, are exempt from disclosure pursuant to §1-210(b)(1), G.S., such provision provides that disclosure is not required of "[p]reliminary drafts or notes provided that the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure."

60. The Supreme Court ruled in Wilson v. Freedom of Information Commission, 181 Conn. 324, 332 (1980) ("Wilson"), that:

> [w]e do not think the concept of preliminary, as opposed to final, should depend upon who generates the notes or drafts, or upon whether the actual documents are subject to further alteration….
>
> Instead the term 'preliminary drafts or notes' relates to advisory opinions, recommendations, and deliberations comprising part of the process by which government decisions and policies are formulated….
>
> …[p]reliminary drafts or notes reflect that aspect of an agency's function that precedes formal and informal decision making. We believe that the legislature sought to

[8] The Commission notes that, because the respondents refused to submit unredacted records for in camera inspection, the Commission cannot know with certainty when the respondents made redactions to just the name or address of a student and when the respondents made redactions to other personally identifying information. The Commission also notes, however, that certain in camera records contain such significant redactions that it is clear to the Commission that more than just names and addresses have been redacted from certain in camera records.

> protect the free and candid exchange of ideas, the uninhibited proposition and criticism of options that often precedes, and usually improves the quality of, governmental decisions. It is records of this preliminary, deliberative and predecisional process the exemption was meant to encompass.

61. The year following Wilson, the Connecticut General Assembly passed Public Act 81-431, which added to the FOI Act the language now codified in §1-210(e)(1), G.S. That provision, which narrowed the exemption for preliminary drafts or notes, provides in relevant part:

> [n]otwithstanding [§1-210(b)(1)], disclosure shall be required of:
>
> [i]nteragency or intra-agency memoranda or letters, advisory opinions, recommendations or any report comprising part of the process by which governmental decisions and policies are formulated, except disclosure shall not be required of a preliminary draft of a memorandum, prepared by a member of the staff of a public agency, which is subject to revision prior to submission to or discussion among the members of such agency…. (emphasis added).

62. In Van Norstrand v. Freedom of Information Commission, 211 Conn. 339, 343 (1989) ("Van Norstrand"), the Supreme Court provided further guidance regarding "preliminary drafts". Citing the dictionary definition, the court stated that the term "preliminary" means "something that precedes or is introductory or preparatory", and "describes something that is preceding the main discourse or business." Id. According to the Court, "[b]y using the nearly synonymous words 'preliminary' and 'draft', the legislation makes it very evident that preparatory materials are not required to be disclosed". Id.

63. Accordingly, §§1-210(b)(1) and 1-210(e)(1), G.S., together, permit nondisclosure of records of an agency's preliminary, predecisional, deliberative process, provided that the agency has determined that the public interest in withholding the records clearly outweighs the public interest in disclosing them and provided further that such records are not interagency or intra-agency memoranda or letters, advisory opinions, recommendations, or reports. See Shew v. Freedom of Information Commission, 245 Conn. 149, 164-166 (1998).

64. With regard to the "balancing test" required by §1-210(b)(1), G.S., it is well established that the responsibility for making the determination as to what is in the public interest is on the agency that maintains the records. See Van Norstrand at 345. The agency must have considered in good faith the effect of disclosure and indicated the reasons for its determination to withhold disclosure, which reasons may not be frivolous or patently unfounded. Id., citing Wilson at 339. See also People for Ethical Treatment of Animals, Inc. v. Freedom of Information Commission, 321 Conn. 805, 816-817 (2016). Thus, the only determination for the

Commission to make is whether the reasons for nondisclosure given by the agency are frivolous or patently unfounded. See Lewin v. Freedom of Information Commission, 91 Conn. App. 521, 522-523 (2005); Coalition to Save Horsebarn Hill v. Freedom of Information Commission, 73 Conn. App. 89, 99 (2002).

65. Based upon a careful inspection of the in camera records described in paragraph 59, above, it is found that the respondents failed to prove that such records are preliminary drafts or notes within the meaning of §1-210(b)(1), G.S. It is also found that the respondents offered no argument, testimony or direct evidence at the hearing on this matter with respect to §1-210(b)(1), G.S., and that such claim was raised for the first time on the corrected in camera index. It is further found, moreover, that although the respondents testified as to the importance of protecting the identities of student complainants and witnesses involved in sexual misconduct investigations, the respondents offered no testimony or direct evidence at the hearing on this matter that the respondents made a determination that the public interest in withholding any preliminary drafts or notes clearly outweighed the public interest in disclosure.

66. It is therefore found that the respondents failed to prove that the in camera records described in paragraph 59, above, are exempt from disclosure pursuant to §1-210(b)(1), G.S.

67. Consequently, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by withholding such in camera records from the complainant.

**Section 1-210(b)(2), G.S.**

68. With regard to the respondents' claim that certain portions of the in camera records, as indicated on the corrected in camera index, and as identified in paragraph 44, above, are exempt from disclosure pursuant to §1-210(b)(2), G.S., such provision provides that disclosure is not required of "[p]ersonnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy."

69. In order to prove the applicability of §1-210(b)(2), G.S., the claimant must first establish that the files in question are personnel or medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy, by establishing both of two elements: (1) the information sought does not pertain to a legitimate matter of public concern; and (2) disclosure of such information would be highly offensive to a reasonable person. See Perkins v. Freedom of Information Commission, 228 Conn. 158, 175 (1993).

70. It is found that the respondents offered no argument, testimony or direct evidence at the hearing on this matter with respect to §1-210(b)(2), G.S., and that such claim was raised for the first time on the in camera index and the corrected in camera index. It is found that on such in camera index and such corrected in camera index, the respondents claimed that the redacted portions of the in camera records described in paragraph 68, above, are exempt from disclosure because they display the personal email and home addresses of certain individuals.

71. The respondents did not identify the person or persons whose privacy allegedly would be invaded by disclosure of the portions of the in camera records described in paragraph 68, above, and it is found that the respondents offered no evidence that they had notified such individuals of the complainants' records request. However, based upon a careful inspection of the in camera records, it is found that such records are personnel or similar files of certain former employees of the University of Connecticut.

72. It is found that the respondents offered no evidence that the in camera records do not pertain to a legitimate matter of public concern or that disclosure of such information would be highly offensive to a reasonable person.

73. In Perkins the court noted that "disclosures relating to the employees of public agencies are presumptively legitimate matters of public concern." Perkins at 174. In addition, the court stated "that when a person accepts public employment, he or she becomes a servant of and accountable to the public. As a result, that person's reasonable expectation of privacy is diminished …." Id. at 177.

74. It is found that email addresses are not the type of personal identifiers of the kind this Commission has, in its discretion, declined to order disclosed in past cases. See Docket #FIC 2023-0479, Joseph McNellis, Michael Donovan, Richard Olivier, and Bridgeport Firefighters for Merit v. Eric Amado, Personnel Director, Office of the Civil Service Commission, City of Bridgeport, et al. (September 11, 2024); Docket #FIC 2014-032, Marc Schwab and the City of Waterbury v. Commissioner, State of Connecticut, Department of Correction, et al. (November 19, 2014); Docket #FIC 2021-0275, Joan Zygmunt v. Attorney General, State of Connecticut, Office of the Attorney General, et al. (November 16, 2022). The Commission also notes that the residential addresses of employees of the University of Connecticut are not included in the comprehensive list of residential addresses exempt from disclosure, pursuant to §1-217, G.S.[9]

75. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by failing to disclose the redacted portions of the in camera records described in paragraph 68, above.

**Civil Penalty**

76. It is found that at the May 21, 2025 hearing, the complainants requested the imposition of a civil penalty against the respondents for denying their right to promptly receive copies of public records. It is also found that the respondent Director, who was present and testified extensively at the May 21, 2025 hearing, is the official directly responsible for such denial.

77. Section 1-206(b)(2), G.S., provides, in relevant part:

> upon a finding that denial of any right created by the Freedom of Information Act was without reasonable

[9] Section 1-217, G.S., prohibits the disclosure of the residential addresses of specific employees and other representatives of certain public agencies.

> grounds and after the custodian or other official directly responsible for the denial has been given an opportunity to be heard at the hearing conducted in accordance with sections 4-176e to 4-184, inclusive, the commission may, in its discretion, impose against the custodian or other official a civil penalty of not less than twenty dollars nor more than five thousand dollars.[10]

78. It is found that the respondents' contention that providing summaries of responsive records instead of copies of the actual records responsive to the complainants' request, as described in paragraph 20, above, was not reasonable.

79. It is found that the respondents' re-opening of the complainants' request, yet treating Mr. Drigotas' follow-up request identifying missing responsive records as a "new" FOI request, while simultaneously neglecting to inform Mr. Drigotas of this decision, as described in paragraph 21, above, was not reasonable.

80. It is found that the respondents' refusal to search for responsive records unless the complainants specifically identify the responsive records that are missing from the respondents' disclosure, as described in paragraph 23, above, was not reasonable.

81. It is concluded, based upon the specific facts and circumstances of this case, that the complainants' right to prompt access to non-exempt responsive public records was denied by the respondents "without reasonable grounds" within the meaning of §1-206(b)(2), G.S., and that the imposition of a civil penalty is warranted.

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

1. Forthwith, the respondents shall undertake a diligent and thorough search for "all records" responsive to the request described in paragraph 2 of the findings, above, and within sixty (60) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainants with unredacted copies of such records, free of charge.

2. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainants with unredacted copies of the in camera records described in paragraph 44 of the findings, above, free of charge.

3. In complying with paragraphs 1 and 2 of the order, above, the respondents may redact the names and addresses of students, pursuant to §1-210(b)(11), G.S. In complying with paragraph 1 of the order, above, the respondents may also withhold such records, or portions thereof, that are subject to a mandatory exemption.

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[10] The Commission notes that, pursuant to Public Act 23-200, §1-206(b)(2), G.S., was amended to increase the maximum civil penalty authorized under the FOI Act from $1,000 to $5,000.

4. If the respondents fail to comply with any order set forth in paragraphs 1 through 3, above, the complainants may file an appeal with the Commission and such appeal may be afforded expedited treatment.

5. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondent Director of Public Records shall contact the Commission's public education officer to schedule training regarding the requirements of the FOI Act.

6. The respondent Director of Public Records, Megan Philippi, shall remit to the Commission, within thirty (30) days of the date of the Notice of Final Decision in this matter, a civil penalty in the amount of five hundred dollars ($500.00).

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

Approved by Order of the Freedom of Information Commission at its special 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:

**CONNER DRIGOTAS AND CONNECTICUT INSIDE INVESTIGATOR**, 915 Silas Deane Highway, Second Floor, South Suite, Wethersfield, CT 06109

**DIRECTOR OF PUBLIC RECORDS, STATE OF CONNECTICUT, UNIVERSITY OF CONNECTICUT; AND STATE OF CONNECTICUT, UNIVERSITY OF CONNECTICUT**, c/o Attorney Shannon Walsh-Whitty and Attorney Nathan LaVallee, Office of the General Counsel, University of Connecticut, 343 Mansfield Road, Unit 1177, Storrs, CT 06238

Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2025-0036/FD/JMM/December 17, 2025