

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Danielle Scarpellino,

Complainant

against

Docket #FIC 2024-0203

Superintendent of Schools, Guilford
Public Schools; and Guilford Public
Schools,

Respondents

March 26, 2025

The above-captioned matter was heard as a contested case on August 27, 2024, November 1, 2024, and January 28, 2025, at which times the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint.¹

Pursuant to an order issued by the Hearing Officer during the January 28, 2025, continued hearing, the respondents submitted a copy of all records that were disclosed to the complainant in this matter and an affidavit of Amy Cripe dated February 3, 2025, which shall be marked as Respondents' Exhibit 4 (after-filed) and 5 (after-filed), respectively.

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 on April 1, 2024, the complainant requested the following records from the respondents:

[Part 1]

¹ The complainant submitted a significant number of attachments with her post-hearing brief, many of which were not offered as evidence during the three hearings in this matter. By written objection received and filed on February 13, 2025, the respondents objected to such attachments as well as several statements included in the complainant's brief which they allege are not part of the record in this matter. With respect to the attachments included with the complainant's post-hearing brief, unless such attachments are otherwise marked as exhibits or adopted herein as an after-filed exhibit, such attachments will not be considered as evidence in this matter. Moreover, the undersigned Hearing Officer did not consider any statement of fact made in either parties' post-hearing brief that was not supported by the testimonial or documentary evidence in the record.

The monthly reports made by the [Family Equity Liaison (FEL)] to Paul Freeman per the FEL's contract agreement starting July 1, 2021[,] to date regarding –

- the number of contacts made
- the type of contacts made
- patterns observed
- recommendations for systemic improvements

[Part 2]

The FEL's records of his introduction, explanation of his position and the invitation to contact him, and all of his contact information that was to be disseminated to all parents and students within [Guilford Public Schools ("GPS")] per his contract starting on July 1, 2021[,] to date.

[Part 3]

The [district's] contract, agreements, payments to Partners for Educational Leadership, aka Connecticut Center for School Change starting in 2020 to date.

[Part 4]

Any records regarding the book *Equitable School Improvement: The Critical Need for the Human Side of Change*.

[Part 5]

When was the FEL's, Rydell Harrison's extension assigned and when was it added to the district's directory and posted to the district's website?

3. It is found that the respondents acknowledged the complainant's request on April 1, 2024, and informed her that they were in the process of reviewing her request and that they would respond in a reasonable timeframe.

4. It is found that by April 5, 2024, the complainant picked up a packet of responsive records from the respondents (hereinafter, the "April 5 disclosure"). It is further found that upon retrieving such records, the complainant made several requests for the respondents to clarify which records were included in the packet.

5. By letter of complaint received and filed on April 12, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (FOI) Act,

by refusing to “specify or match the records that are in response to each request and for which request they were unable to identify records.”

6. 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.

7. 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.

8. 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.”

9. It is concluded that the records described in paragraph 2, above, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. The respondents contend that the complaint fails to allege that they did not provide all records responsive to the complainant’s April 1 request. Rather, the respondents argue that the complainant’s basis for alleging a FOI Act violation stems solely from her claim that the respondents did not clarify which portions of the April 5 disclosure were responsive to which portions of her April 1 request.

11. Our Supreme Court has made clear that “[as] a practical matter, the FOIA is used by members of the public who are unschooled in technical, legalistic language distinctions. It would be unreasonable to deny a member of the public access to the FOIA simply because of arguable imperfections in the form in which a request for public records is couched.” Perkins v. Freedom of Info. Comm’n, 228 Conn. 158, 167 (1993) (“Perkins”). The Supreme Court also noted that: “the trial court . . . relied on distinctions that are overly formal and legalistic in light of the public policy expressed by the FOIA. The overarching legislative policy of the FOIA is one that favors ‘the open conduct of government and free public access to government records.’ . . . As we have repeatedly noted, ‘[o]ur construction of the FOIA must be guided by the policy favoring disclosure....’” Perkins at 166-167 (citations omitted). The Supreme Court has also opined that

this rationale applies to complaints submitted to the Commission. See, Domestic Violence Services of Greater New Haven, Inc. v. Freedom of Info. Comm'n, 240 Conn. 1, 7 fn. 9 (1997).

12. Pursuant to the standard set forth in Perkins, the Commission determines the scope of a complaint by broadly reading the complaint as a whole. See Docket #FIC 2023-0241, Anita Arakelian v. Chairman, Board of Education, West Hartford Public Schools et al. (May 8, 2024); see also Docket #FIC 2023-0109, Nicholas Tella v. Erika Wiencieski, First Selectwoman, Board of Selectman, Town of Willington et al. (March 13, 2024).

13. It is found that when submitting her April 12 complaint to this Commission, the complainant included correspondence between her and the respondents occurring after the April 1 request but before the April 12 complaint. In that correspondence, the complainant made clear that for the purposes of her request, “the absence of records [is] just as important as records that do not exist.” See Complainant’s Exhibit M.

14. In light of the significant policy considerations cited in paragraphs 11 through 13, above, and based on a broad reading of the complaint, it is found that the complainant fairly alleged that the respondents failed to provide all records responsive to her April 1 request.

15. Nevertheless, to the extent the complainant does allege that the respondents violated the FOI Act by not providing clarification on the records provided, the Commission notes that a public agency has no duty to answer questions, only to provide access to, and copies of, public records under the FOI Act. See, Kimberly Albright-Lazzari et al v. Colleen Murphy, Connecticut Freedom of Information Commission et al, CV105014984S, 2011 WL 1886878, at *3 (Conn. Super. Ct. April 21, 2011) (hereinafter, “Albright-Lazzari”).

16. With respect to Part 1 of the complainant’s April 1 request, described in paragraph 2, above, the complainant alleges that the FEL’s contract requires that he report to the Superintendent the number of contacts made, the type of contacts made, patterns observed, and recommendations for systemic improvements. Based on these contractual requirements, the complainant alleges that the respondents must maintain records of such reports.

17. While the FEL’s contract requires that such reports be made during monthly meetings between the FEL and the Superintendent, it is found that such contract does not state how such reports must be made.

18. The respondents testified, and it is found, that such reports were made to the Superintendent orally during those meetings, that there was no expectation that the FEL would produce written reports, and such reports were never incorporated into a record.

19. Accordingly, it is found that the respondents did not maintain records responsive to Part 1 of the complainant’s April 1 request.

20. With respect to Part 2 of the complainant’s April 1 request, described in paragraph 2, above, the respondents testified, and it is found, that they maintain a webpage announcing the FEL’s services. It is found that such webpage: (i) was active and publicly available at the time of the complainant’s April 1 request; and (ii) continues to be maintained by the respondents.

21. It is found that such webpage contains much, if not all, of the information sought by the complainant in Part 2 of her April 1 request – e.g., description of services and contact information.

22. The respondents testified that they did not consider such webpage responsive to Part 2 of the complainant's April 1 request, because such request sought "[t]he FEL's records."

23. As noted in paragraph 11, above, the Commission avoids distinctions that are overly formal and legalistic in light of the FOI Act's public policy objectives. See Perkins, 228 Conn. at 166-167.

24. It is found that the phrase "[t]he FEL's records" as used in Part 2 of the complainant's April 1 request may fairly be construed as seeking all records relating to the FEL's introduction, explanation of his position, invitation to contact him, and all of his contact information that was to be disseminated to all parents and students.

25. It is found that the webpage described in paragraphs 20 and 21, above, is responsive to Part 2 of the complainant's April 1 request.

26. It is found that the respondents did not provide a copy of the webpage to the complainant or otherwise provide the complainant with records containing information that was posted to the webpage as part of their April 5 disclosure, and therefore, failed to provide the complainant with all records responsive to Part 2 of her April 1 request.

27. As to Part 3 of the complainant's April 1 request, the respondents maintained that they provided all records responsive thereto to the complainant.

28. It is found that the respondents' packet they provided to the complainant on April 5 contained, *inter alia*: (i) the 2023-2024 contract between the respondents and the Partners for Educational Leadership ("PEL"); and (ii) invoices sent to the respondents from either PEL or the Connecticut Center for School Change.

29. The complainant has not identified any record (or types of records) that would be responsive to Part 3 of her April 1 request that should have been provided to her but were not.²

30. Accordingly, it is found that the respondents provided the complainant with all records responsive to Part 3 of her April 1 request.

²The complainant did allege that she was not provided with a copy of the FEL's contract in response to Part 2 of her April 1 request. The respondents initially testified that the FEL's contract was provided in response to Part 3 of the complaint's April 1 request. However, in their post-hearing brief, the respondents represented that their witness misspoke and meant that the contract between PEL and GPS was provided. The respondents' representation is corroborated by the administrative record (specifically, Respondents' Exhibit 4 (after-filed)). Moreover, upon reviewing the FEL's contract marked as Complainant's Exhibit I, it is found that such record would not be responsive to either Part 2 or Part 3 of the complainant's April 1 request.

31. With respect to Part 4 of her April 1 request, the complainant alleges that the respondents failed to provide her with all records pertaining to the book *Equitable School Improvement: The Critical Need for the Human Side of Change*.

32. In support of this claim, the complainant provided several email threads which she maintained should have been provided in the respondents' April 5 packet but were not. See e.g., Complainant's Exhibits T & V.

33. It is found that Complainant's Exhibits T & V constitute email threads that: (i) predate the complainant's April 1 request; (ii) were sent to and/or received by individuals with a GPS email; and (iii) contain references to the book *Equitable School Improvement: The Critical Need for the Human Side of Change*.

34. Moreover, it is found that such emails were not provided as part of the respondents' packet provided to the complainant on April 5.

35. It is found when searching for records responsive to Part 4 of the complainant's April 1 request, the respondents conducted "a comprehensive search of Superintendent Paul Freeman's email and records, but not the full, district email archive and records. . . ." See Respondents' Exhibit 5 (after-filed).

36. It is found that the respondents only searched the Superintendent's email because "the request was read to be for those records that Paul Freeman specifically had on that specific requested item." See Id.

37. It is found, however, that the administrative record does not support the respondents' interpretation of Part 4 of the complainant's April 1 request. For instance, Part 4 of the complainant's April 1 request, specifically seeks *any* records relating to the book *Equitable School Improvement: The Critical Need for the Human Side of Change*. Additionally, nowhere is the complainant's April 1 request limited to only those records directly maintained by the Superintendent.³

38. It is found that the respondents did not conduct a thorough and diligent search with respect to the records requested in Part 4 of the complainant's April 1 request. Accordingly, it is found that the respondents did not provide all records responsive to Part 4 of the complainant's April 1 request.

39. With respect to Part 5 of her April 1 request, it is found that the complainant was seeking answers to the questions posed therein. As noted in paragraph 15, above, public agencies

³The Commission notes that the only version of the complainant's April 1 request in the administrative record is the acknowledgment letter sent to the complainant by the respondents. See Complainant's Exhibit A. The Hearing Officer confirmed several times with the parties that the acknowledgment letter accurately reproduced the complainant's request. That acknowledgement letter does not indicate that the complainant is seeking only those records directly maintained by the Superintendent. Nevertheless, even if the complainant's April 1 request was addressed to the Superintendent, reading the request as a whole indicates that the complainant was seeking the records maintained by the Guilford Public Schools, not just the Superintendent.

have no duty to answer questions, only to provide access to, and copies of public records, under the FOI Act. Albright-Lazzari, 2011 WL 1886878, at *3.

40. Based on all of the foregoing, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to Parts 2 and 4 of the complainant's April 1 request, described in paragraph 2, above.

Civil Penalty

41. Although the complainant did not seek a civil penalty against the respondents in her initial complaint, on August 20, 2024, she submitted a motion to amend her complaint to include a request for civil penalties against the Superintendent. During the August 27, 2024 hearing in this matter, the respondents indicated that they had no objection to the complainant amending her complaint to add a request for a civil penalty.

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

upon a finding that a denial of any right created by the Freedom of Information Act was without reasonable 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.⁴

43. Although the Commission has concluded the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to Parts 2 and 4 of the complainant's April 1 request, it is found that the respondents did not act in bad faith or deliberately delay the disclosure of public records.

44. Moreover, it is found that the respondents do not have a history of violating the FOI Act.

45. Accordingly, the Commission declines to consider the imposition of a civil penalty under the facts and circumstances of this case.

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

1. Within forty-five (45) days of the date of the Notice of Final Decision in this matter, the respondents shall conduct a thorough and diligent search for records responsive to Parts 2 and 4 of the complainant's April 1 request, described in paragraph 2 of the findings, above, and

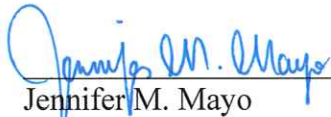
⁴ The Commission notes that, pursuant to Public Act 23-200, §1-206(b)(2), G.S., was amended to increase the maximum civil penalty authorized under the FOI Act from \$1,000 to \$5,000.

provide copies of such records to the complainant free of charge. Such search shall include, but not be limited to, all emails maintained by the respondent Guilford Public Schools.

2. In the event the respondents search yields additional responsive records and the respondents believe that such records, or portions thereof, are subject to mandatory exemptions to disclosure (as opposed to permissive exemptions set forth in §1-210(b), G.S., or similar statutes), they shall so inform the complainant, indicating what exemption(s) is applicable and may withhold such records, or portions thereof, when complying with paragraph 1 of this order. If the complainant wishes to challenge any withheld records, or portions thereof, she may file a complaint with the Commission, wherein she may request expedited treatment.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of March 26, 2025.



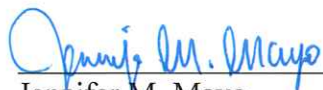
Jennifer M. Mayo
Acting Clerk of the Commission

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:

DANIELLE SCARPELLINO, 405 Andrew Lane, Guilford, CT 06437

**SUPERINTENDENT OF SCHOOLS, GUILFORD PUBLIC SCHOOLS; AND
GUILFORD PUBLIC SCHOOLS**, c/o Attorney Kenneth S. Weinstock, Kainen, Escalera and
McHale P.C., 21 Oak Street, Hartford, CT 06106



Jennifer M. Mayo
Acting Clerk of the Commission