FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Michael Gyetvan,

Complainant

against

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

Respondents

FINAL DECISION

Docket #FIC 2024-0855

November 19, 2025

The above-captioned matter was heard as a contested case on May 22, 2025, at which time the complainant's attorney and the respondents appeared, stipulated to certain facts and presented exhibits and argument on the complaint. The Commission takes administrative notice of the pleadings, and the exhibits attached thereto, in the above-captioned matter, including a complaint filed by the complainant against the respondent University of Connecticut with the Connecticut Commission on Human Rights and Opportunities ("CHRO"), Michael Gyetvan v. University of Connecticut, CHRO Case No. 2040221 ("CHRO matter").

After the contested case hearing on this matter, by order of the undersigned hearing officer, the respondents submitted two after-filed exhibits, which have been admitted into evidence, without objection, and marked as follows: Respondents' Exhibit A (after-filed): legal correspondence from Attorney McAllister to the respondents, dated December 23, 2019 (with attachments) ("Respondents' Exhibit A"); and Respondents' Exhibit B (after-filed): affidavit of Jonathan Heinlein, dated August 27, 2025 ("Respondents' Exhibit B").

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 letter dated December 9, 2024, the complainant requested "digital copies of the 66 circled items in the attached, including any attachments." (Emphasis in original.) It is also found that the "attached" item referenced in the complainant's records request is a copy of an in camera log submitted by the respondents in the related CHRO matter with circles indicating the sixty-six records, and attachments thereto, at issue here.

3. It is found that, by email dated December 11, 2024, the respondents acknowledged the complainant's request described in paragraph 2, above. It is also found that, by email dated

December 27, 2024, the respondents denied the complainant's request and claimed that all responsive records are "communications privileged by the attorney-client relationship."

4. By letter of complaint, dated and filed December 30, 2024, the complainant 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.

5. Section 1-200(5), G.S., provides:

> "[p]ublic records or files" means any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides, in relevant part:

> [e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to … (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides, in relevant part: "[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

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

9. Prior to the hearing on this matter, on May 5, 2025, the respondents submitted a motion to dismiss this matter, based upon the doctrine of collateral estoppel, which motion was denied by the hearing officer.

10. At the hearing on this matter, the parties stipulated that the records described in paragraph 2, above, relate directly to the CHRO matter and that the presiding officer for such CHRO matter denied the complainant's discovery request for such records. The parties also stipulated that the issues before the Commission are limited to whether such records are exempt

from disclosure and whether the Commission should issue sanctions against the respondents for filing a "frivolous and dilatory" motion to dismiss, described in paragraph 9, above.[1]

11. The respondents argued that the entirety of all records described in paragraph 2, above, are exempt from disclosure pursuant to the attorney-client privilege. The respondents also moved for reconsideration of their motion to dismiss and requested an articulation of the Commission's reasons for denying such motion.

12. On June 5, 2025, the hearing officer issued the Commission's Notice of Reconsideration and Articulation of Ruling on Motion to Dismiss and Order to Submit Records for In Camera Inspection.

13. On June 26, 2025, by order of the hearing officer, the respondents submitted to the Commission an unredacted copy of responsive records for an in camera inspection, along with an in camera index.[2] Such records shall be identified hereinafter as IC-2024-0855-1 through IC-2024-0855-128.[3]

14. On the in camera index, the respondents contended that the entirety of every in camera record is exempt from disclosure under §1-210(b)(10), G.S. The respondents also contended, for the first time, that the entirety of every in camera record is exempt from disclosure under §1-210(b)(4), G.S.

15. With regard to the respondents' claim that the in camera records, as indicated on the in camera index, are exempt from disclosure pursuant to §1-210(b)(10), G.S., such statute permits a public agency to withhold from disclosure records of "communications privileged by the attorney-client relationship."

16. The applicability of the exemption contained in §1-210(b)(10), G.S., is governed by established Connecticut law defining the privilege. That law is well set forth in Maxwell v. FOI Comm'n, 260 Conn. 143 (2002). In that case, the Supreme Court stated that §52-146r, G.S., which established a statutory privilege for communications between public agencies and their attorneys, merely codifies "the common-law attorney-client privilege as this court previously had defined it." Id. at 149.

17. Section 52-146r(a)(2), G.S., defines "confidential communications" as:

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[1] With regard to the complainant's request for sanctions, the Commission notes that it is a creature of statute with limited jurisdiction; it can only administer and enforce the provisions of the FOI Act. See Dept. of Public Safety v. Freedom of Information Commission, 103 Conn. App. 571, 577 (2007). See also paragraph 41, below.

[2] It is found that the respondents also submitted, along with the in camera records, a memorandum with unresponsive confidential attachments ("memorandum"). The Commission, subsequently, notified the parties that such memorandum would not be reviewed or relied upon in deciding this matter, and such memorandum, therefore, will not be further addressed herein.

[3] The respondents did not number the lines and words on the in camera records. Therefore, the hearing officer numbered such lines in pencil, in order to properly identify the specific portion(s) of a particular record, as identified on the in camera index. See paragraphs 22 and 34, below.

> all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice. . . .

18. The Supreme Court has also stated that "both the common-law and statutory privileges protect those communications between a public official or employee and an attorney that are confidential, made in the course of the professional relationship that exists between the attorney and his or her public agency client, and relate to legal advice sought by the agency from the attorney." Maxwell at 149.

19. The Commission recognizes that "[w]here legal advice of any kind is sought from a professional legal adviser in his capacity as such, the communications relating to that purpose, made in confidence by the client, are at his instance permanently protected from disclosure by himself or by the legal adviser, except the protection be waived." Rienzo v. Santangelo, 160 Conn. 391, 395 (1971); see also Olson v. Accessory Controls & Equipment Corp., 254 Conn. 145, 159, 757 A.2d 14 (2000). Moreover, in Connecticut, "the attorney-client privilege protects both the confidential giving of professional advice by an attorney acting in the capacity of a legal advisor to those who can act on it, as well as the giving of information to the lawyer to enable counsel to give sound and informed advice. . .. The privilege fosters full and frank communications between attorneys and their clients and thereby promote[s] the broader public interests in the observation of law and [the] administration of justice." PSE Consulting, Inc. v. Frank Mercede & Sons, Inc., 267 Conn. 279, 329-30 (2004). However, the privilege only applies when necessary to achieve its purpose; it is not a blanket privilege. Harrington v. FOI Comm'n, 323 Conn. 1, 12 (2016). Further, a party can establish that a document is privileged by showing that the document itself is the record or memorialization of a communication between the client and the attorney; by showing that the document was created with the intent to communicate the contents to an attorney, and the client actually communicated the contents to the attorney; or by showing that the document was somehow transformed for the purpose of seeking legal advice and communicated or intended to be communicated to an attorney. See State v. Kosuda-Bigazzi, 335 Conn. 327 (2020).

20. With regard to claims of privilege involving records, "[t]he privilege must be established for 'each document separately considered' and must be narrowly applied and strictly construed." Id. at 342-43. However, if it is clear from the face of the records, extrinsic evidence is not always required to prove the existence of the attorney-client privilege. Lash v. FOI Comm'n, 300 Conn. 511, 516 (2011).

21. The Commission has routinely found, and the courts have agreed, that certain information, such as the identity of a client or when meetings occurred and with whom, is not protected by the attorney-client privilege. In the context of an attorney's billing records, for

example, the Commission notes that it is generally accepted that attorney billing statements and time records are protected by the attorney-client privilege *only to* the extent that they reveal litigation strategy and/or the nature of the services performed. See Bruno v. Bruno, FA0540049006S, 2009 WL 2451005, at *2 (Conn. Super. Ct. July 10, 2009). "[T]he identity of the client, the amount of the fee, the identification of payment by case file name, and the general purpose of the work performed are usually not protected from disclosure by the attorney-client privilege.... However, . . . bills . . . and time records which also reveal the motive of the client in seeking representation, litigation strategy, or the specific nature of the services provided, such as researching particular areas of law, fall within the privilege." Id. at *2. In Bruno, the court said that "[m]ost of the billing records of Cohen & Wolf, P.C., in question merely refer to conferences with client or e-mails to and from client or others as well as appearances at hearings. None of that information falls within the attorney-client privilege." Id. at *3. In City of New Haven v. FOIC, et al., 4 Conn. App. 216, 220 (1985), the trial court found, after conducting an in camera review of the billing records, that there was nothing in such records to suggest they came within the purview of the attorney-client privilege. "Questions as to where and when a client had conversations with his attorney have been found not to be within the attorney-client privilege ... nor have questions propounded to an attorney seeking the client's name and the capacity in which the attorney was employed been held to fall within the attorney-client privilege." Id. at 220. See also Docket #FIC 2014-240; Suzanne Carlson and the Hartford Courant v. Executive Director, East Hartford Housing Authority; and East Hartford Housing Authority (March 25, 2015) (the Commission concluded that the date of service, initials of attorney, hours and rate and amount billed were not exempt from disclosure pursuant to either the attorney-client privilege or §1-210(b)(4), G.S.); Docket #FIC 2011-619; Joseph Sargent v. Office of the Corporation Counsel, City of Stamford; and City of Stamford (October 10, 2012) (the Commission concluded that those sections of billing records that reveal how many hours were worked by each attorney and the cost of such work were not exempt from disclosure pursuant to either the attorney-client privilege or §1-210(b)(4), G.S.).

22. Based upon a careful inspection of the in camera records identified in paragraph 15, above, it is found that the following portions of such in camera records consist of segments of (i) e-mails to, from, and among the respondents' employees and to the respondents' employees from their attorney, that contain information not generally protected by the attorney-client privilege and do not reveal litigation strategy or the specific nature of the services performed; (ii) preexisting documents that were not transformed for the purpose of seeking legal advice; and (iii) one communication wholly unrelated to legal advice:

IC-2024-0855-1 (lines 1 through 5, 6 (word 1), 7, and 10);
IC-2024-0855-4 (lines 1 through 5, 6 (word 1), 7, and 10 through 11);
IC-2024-0855-7 (lines 1 through 6, 7 (word 1), 8, 12 through 15, and 18 through 19);
IC-2024-0855-10 (lines 1 through 6, 7 (word 1), 8, 12 through 15, and 18 through 19);
IC-2024-0855-11 through IC-2024-0855-019;
IC-2024-0855-31 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 24, 25 (word 1), and 26 through 27);
IC-2024-0855-32
IC-2024-0855-37 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 23, and 24 (word 1);

IC-2024-0855-38;
IC-2024-0855-42 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 13, 14 (word 1), and 23 through 32);
IC-2024-0855-43
IC-2024-0855-47 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 10, 11 (word 1), 12, 16 through 28, 29 (word 1), and 30 through 31);
IC-2024-0855-48 (lines 6 through 21);
IC-2024-0855-61 (lines 1 through 3, 4 (word 1), 5 through 26, 27 (word 1), and 28 through 42);
IC-2024-0855-62 (lines 1 through 2, 3 (word 1), 4 through 5, and 14 through 29);
IC-2024-0855-63 (lines 1 through 3, 4 (word 1), 5 through 26, 27 (word 1), and 28 through 42);
IC-2024-0855-64 (lines 1 through 2, 3 (word 1), 4 through 5, and 14 through 29);
IC-2024-0855-71 (lines 1 through 3, 4 (word 1), 5 through 14, 15 (word 1), 16 through 34, 35 (word 1),and 36 through 38);
IC-2024-0855-72 (lines 1 through 14, 15 (word 1), 16 through 17, and 26 through 35);
IC-2024-0855-73
IC-2024-0855-74 (lines 1 through 3, 4 (word 1), 5 through 14, 15 (word 1), 16 through 34, 35 (word 1), and 36 through 38);
IC-2024-0855-75 (lines 1 through 14, 15 (word 1), 16 through 17, and 26 through 35);
IC-2024-0855-76
IC-2024-0855-86 (lines 1 through 2, 3 (word 1), 4 through 5, 6 through 29, 30 (word 1), and 31 through 37);
IC-2024-0855-87 (lines 1 through 12, 13 (word 1), 14 through 30, 31 (word 1), and 32 through 33);
IC-2024-0855-88 (lines 4 through 18);
IC-2024-0855-89 (lines 1 through 2, 3 (word 1), 4 through 5, 9 through 12, 13 (word 1), and 14 through 33);
IC-2024-0855-90 (lines 1 through 4, 5 (word 1), 6 through 24, 25 (word 1), and 26 through 40);
IC-2024-0855-91 (lines 1 through 2, 3 (word 1), 4 through 5, and 14 through 28);
IC-2024-0855-92 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 13, 14 (word 1), and 23 through 34);
IC-2024-0855-93;
IC-2024-0855-105 through IC-2024-0855-110;
IC-2024-0855-111 (lines 1, 2 (word 1), 3 through 15, 16 (word 1), and 17);
IC-2024-0855-115[4];
IC-2024-0855-117 (lines 34 through 40);
IC-2024-0855-118;
IC-2024-0855-119 (lines 4 through 38);
IC-2024-0855-120 through IC-2024-0855-121; and
IC-2024-0855-125 (lines 1 through 2, 3 (word 1), 4 through 5, 6 (word 1), 7 through 13, 14 (word 1), and 23 through 34).

[4] The Commission notes that on the in camera index, the respondents erroneously labeled IC-2024-0855-115 as IC-2024-0855-0155; however, it is clear from the referenced record on the in camera index and the in camera records, themselves, that the respondents intended to refer to IC-2025-0855-115.

23. It is therefore found that the respondents failed to prove that the portions of such in camera records identified in paragraph 22, above, consist of privileged attorney-client communications that are exempt from disclosure pursuant to §1-210(b)(10), G.S.

24. With respect to the remainder of the redacted information claimed to be exempt from disclosure pursuant to §1-210(b)(10), G.S., it is found, based upon a careful in camera inspection, that such portions of such records constitute written communications, transmitted in confidence, between a public official or employee of a public agency, acting with the scope of their employment, and their attorney(s), and that such communications are related to legal advice sought. It is also found that no evidence was provided by the complainant to rebut the presumption that such communications were made in confidence or that the privilege had been waived. See Blumenthal v. Kimber Mfg., Inc., 265 Conn. 1, 15 (2003).

25. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S, by withholding the records described in paragraph 24, above.

26. With regard to the respondents' claim that the in camera records, as indicated on the in camera index, are exempt from disclosure pursuant to §1-210(b)(4), G.S., such statute provides that disclosure is not required of "[r]ecords pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party until such litigation or claim has been finally adjudicated or otherwise settled...."

27. The phrase "pending claims" as defined in §1-200(8), G.S., means:

> [a] written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action in an appropriate forum if such relief is not granted.

28. The phrase "pending litigation" as defined in §1-200(9), G.S., means:

> (A) a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action before a court if such relief or right is not granted by the agency; (B) the service of a complaint against an agency returnable to a court which seeks to enforce or implement legal relief or a legal right; or (C) the agency's consideration of action to enforce or implement legal relief or a legal right.

29. At the hearing on this matter, the respondents did not submit evidence or testimony to substantiate their claim that the requested records are exempt from disclosure pursuant to §1-210(b)(4), G.S. It is found that Respondents' Exhibit A is a written notice to the respondent agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action in an appropriate forum if such relief is not granted. It is therefore

found that, as of December 23, 2019, there was a pending claim or pending litigation to which the respondent agency was a party.

30. It is found that Respondents' Exhibit B is an affidavit signed on August 27, 2025, by Jonathan Heinlein, an attorney representing the respondents in the CHRO matter. It is also found that, in such affidavit, Attorney Heinlein attests that, as of the date of signing Respondents' Exhibit B, the CHRO matter was still pending.

31. It is therefore concluded that, as of the hearing on May 22, 2025, the respondents were party to a pending claim or pending litigation that had not been finally adjudicated or otherwise settled, within the meaning of §1-210(b)(4), G.S.

32. The Supreme Court in Stamford v. FOI Commission, 241 Conn. 310 (1997), cited with approval the definitions in Webster's Third New International Dictionary of the words "strategy" and "negotiations" within the meaning of §1-210(b)(4), G.S.:

> Strategy is defined as 'the art of *devising or employing plans or stratagems.*' [Emphasis in original] .... Negotiation is defined as 'the action or process of negotiating,' and negotiate is variously defined as: 'to communicate or confer with another so as to arrive at the settlement of some matter: meet with another so as to arrive through discussion at some kind of agreement or compromise about something'; 'to arrange for or bring about through conference and discussion: work out or arrive at or settle upon by meetings or agreements or compromises'; and 'to influence successfully in a desired way by discussions and agreements or compromises.'

Stamford v. FOI Commission, at 318.

33. With respect to the definition of "strategy", the court provided additional guidance in Bloomfield Educ. Ass'n v. Frahm, No. CV 93 0703802 S, 1993 WL 280109, aff'd, 35 Conn. App. 384, cert. denied, 231 Conn. 926 (1994) ("Bloomfield I"). There, the court stated that:

> a report, record or statement of strategy would appear to be a recordation of plans or methods of proceeding to obtain a favorable outcome in the grievance resolution process. One would expect such records to be of an *internal* nature, i.e. designed to communicate information to another who stands on the same side of an issue as the author of the plan or method or strategy. Such records might typically comprise discussion of different avenues of approach to a problem, an evaluation of likelihood of success, and a discussion of possible repercussions if a particular tack is followed.

Id. at *3 (emphasis in original).

34. Based upon a careful inspection of the in camera records identified in paragraph 26, above, it is found that the following records pertain to "strategy" within the meaning of §1-210(b)(4), G.S., with respect to the pending claim identified in paragraph 31, above:

IC-2024-0855-37 (line 9);
IC-2024-0855-71 (lines 8 through 9);
IC-2024-0855-74 (lines 8 through 9);
IC-2024-0855-86 (lines 6 through 10, and 23 through 24);
IC-2024-0855-89 (lines 14 through 18, and 31 through 32);
IC-2024-0855-109 (lines 7 through 8);
IC-2024-0855-110 (lines 8 through 9); and
IC-2024-0855-115 (lines 7 through 12).

35. It is therefore concluded that the in camera records identified in paragraph 34, above, are permissively exempt from disclosure pursuant to §1-210(b)(4), G.S.

36. In Bloomfield I, the court also provided guidance with respect to the definition of "negotiations". There, the court stated that "the word 'negotiations' implies offers and counter-offers between the parties to narrow the gap between those parties." Id. at *4.

37. The Appellate Court provided further guidance in Bloomfield Educ. Ass'n v. Frahm, 35 Conn. App. 384, cert. denied, 231 Conn. 926 (1994) ("Bloomfield II"). There, in affirming the lower court's decision in Bloomfield I, the Appellate Court stated that:

> '[n]egotiations is a broad term, not in all connotations a term of art, but in general it means the deliberation which takes place between the parties touching a *proposed agreement* ... the deliberation, discussion, or conference on the terms of a *proposed agreement*; a treating with another with a view to coming to terms.... Negotiations look to the future, and are preliminary discussions; the preliminaries of a business transaction....'
>
> A key element of negotiations is the existence of an offer of possible settlement. In decisions concerning labor disputes, courts have described negotiations as the 'process of submission and consideration of *offers* until an acceptable offer is made, and accepted....'

Bloomfield II, at 390 (citations omitted; emphasis in original).

38. Based upon a careful inspection of the in camera records identified in paragraph 26, above, it is found that such in camera records are not external in nature and do not consist of offers and counter-offers between the parties, or touch on a proposed agreement, or reveal the process of submission and consideration of offers until an acceptable offer is made and accepted.

It is found, rather, that such in camera records reveal internal discussions between various employees of the respondents.

39. Based upon the findings in paragraph 38, above, it is concluded that the in camera records identified in paragraph 26, above, do not pertain to "negotiations" with respect to the pending claim or pending litigation described in paragraph 31, above.

40. Consequently, it is further concluded that, with the exception of those records identified in paragraph 34, above, the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by not disclosing the in camera records identified in paragraph 22, above.

41. After consideration of the entire record, the Commission in its discretion declines to consider the imposition of a civil penalty.

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

1. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainant with unredacted copies of the in camera records described in paragraph 22 of the findings, above, free of charge.

2. In complying with paragraph 1 of the order, above, the respondents need not provide the complainant with the information identified in paragraph 34 of the findings, above.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of November 19, 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:

MICHAEL GYETVAN, c/o Attorney James T. Baldwin, Coles Baldwin Kaiser & Creager, LLC, 1 Eliot Place, 3rd Floor, Fairfield, CT 06824

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 Ralph E. Urban, Office of the General Counsel, University of CT, 343 Mansfield Road, Unit 1177, Storrs, CT 06269

Jennifer M. Mayo
Acting Clerk of the Commission

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