

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joe Glenn,

Complainant

against

Docket # FIC 2025-0636

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

Respondents

July 8, 2026

The above-captioned matter was heard as a contested case on February 13, 2026, and May 15, 2026, at which times the complainant and the respondents appeared; stipulated to certain facts; and presented testimony, exhibits, and argument on the complaint.

On May 28, 2026, in response to a May 21, 2026, order of the presiding hearing officer, the respondents filed two affidavits. Such affidavits are marked and admitted into evidence as follows: Respondents' Exhibit 7 (after-filed): "Two Affidavits of Megan Philippi, filed by email on May 28, 2026, with attachments (11 pages)."

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 May 19, 2025, by email sent to the president of the respondent university, the complainant requested electronic copies of the following:

[...] any and all records, emails, internal communications, reports, attachments, or notes that reference me – Joe Glenn, across any division, program, or administrative unit of the University of Connecticut, including but not limited to the Neag School of Education, TCPCG faculty, certification staff, and field placement teams [...] from the period from January 1, 2024 to the present and includes all platforms and formats.

(hereinafter, "complainant's request").

3. It is found that, by email on May 20, 2025, the respondent public records director acknowledged the complainant's request, which had been forwarded to her office. It is further found that she informed the complainant that she would provide his request to the appropriate university personnel to identify and compile responsive records.

4. It is found that, by email on June 3, 2025, the complainant requested an update from the respondents regarding the status of his request.

5. It is found that, by email later in the day on June 3, 2025, the respondent public records director informed the complainant, in part, that the university was still compiling and reviewing records responsive to his request and that the records would be provided to him within forty-five (45) days of his request, in accordance with the respondent university's FERPA¹ policy.

6. It is found that, by email later in the day on June 3, 2025, the complainant replied to the email described in paragraph 5, above. It is found that the complainant's reply email conveyed the following:

- (a) he was making his request pursuant to the Freedom of Information ("FOI") Act, not FERPA;
- (b) his request was not limited to his academic record and records maintained in his student file;
- (c) his request sought administrative communications and documentation held by the respondent university concerning its actions, decision-making, and internal handling of "my matter;" and
- (d) he requested that the respondents provide the statutory exemption for any documents withheld or redacted on the basis of FERPA.

7. It is found that, by email on June 12, 2025, the respondent public records director provided the complainant with a password-protected hyperlink to records that she purported were responsive to his request. It is further found that she informed the complainant in such email that the respondents (a) redacted names and personal information of other students pursuant to §§1-210(a), 1-210(b)(11), and 1-210(b)(17), G.S., and (b) withheld records as attorney-client privileged communications pursuant to §1-210(b)(10), G.S.

8. It is found that, by email later in the day on June 12, 2025, the complainant reiterated his request for narrowly-tailored FERPA redactions; sought a more detailed privilege log for records withheld pursuant to §1-210(b)(10), G.S.; and sought missing PDF attachments to the responsive emails provided by the respondents.

9. It is found that, by email on June 25, 2025, and again on June 26, 2025, the complainant requested that the respondents reply to his request described in paragraph 8, above.

¹ The federal Family Educational Rights and Privacy Act ("FERPA") and its implementing regulations protect the privacy of student education records. *See* 20 U.S.C. 1232g; 34 CFR Part 99.

10. It is found that, by email on June 26, 2025, the respondent public records director acknowledged receipt of the complainant's emails, described in paragraph 9, above. It is further found that she informed the complainant that she was working on a substantive response and pledged to provide him with the missing email attachments he requested, as described in paragraph 8, above.

11. It is found that, by email on July 1, 2025, the respondent public records director provided the complainant with a password-protected hyperlink to 996 pages of records, including attachments to the emails that were missing from the respondents' June 12, 2025, production, described in paragraph 7, above. It is further found that, in such email, the respondent public records director declined to produce a privilege log but did represent that one email attachment regarding another student was withheld pursuant to §§1-210(a), 1-210(b)(11), and 1-210(b)(17), G.S. It is further found that she reassured the complainant that none of his information had been redacted pursuant to FERPA, only other students' information.

12. By email, received and filed on July 18, 2025, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide a privilege log for the redactions and withholding records provided in response to his request, described in paragraph 2, above. The complainant also requested that the Commission conduct an in camera review of all records containing redactions or withheld in their entirety.²

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

“[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.

14. Section 1-210(a), G.S., provides the following 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.

15. 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.”

² The Commission notes that the complainant also filed with the Commission supplements to his complaint on August 1, 2025, and August 18, 2025, reiterating the matters set forth in his pleadings in his July 18, 2025, complaint.

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

17. It is found that, via email on August 1, 2025, the respondent public records director provided the complainant with a list of university personnel whose communications were withheld pursuant to the attorney-client privilege and §1-210(b)(10), G.S.

18. It is found that, via email on January 13, 2026, the respondent public records director provided the complainant with a zip file containing the following:

- (a) a second copy of records previously provided to the complainant with citations for each redaction contained therein and
- (b) supplemental records previously withheld pursuant to attorney-client privilege with citations for the remaining redactions contained therein.

Claimed Exemptions to Disclosure

19. The complainant contended at the contested case hearings on this matter that the responsive records withheld by the respondents are not exempt from disclosure and requested that the Commission conduct an in camera review of such records. Specifically, the complainant contended that the respondents should have provided him a privilege log for the redactions made to the records they provided to him.

20. There is no provision in the FOI Act that requires public agencies to provide a privilege log to a requester, either during the disclosure of responsive records or upon request. Accordingly, it is concluded that the respondents did not violate the FOI Act by initially releasing responsive records to the complainant on June 12, 2025, and July 1, 2025, without a privilege log or by initially declining to provide a privilege log on July 1, 2025, upon the complainant's request.³

21. On May 15, 2026, pursuant to an order of the undersigned hearing officer, the respondents submitted 79 pages of unredacted records for in camera inspection. Along with such records, the respondents submitted a detailed Index to Records Submitted for In Camera

³ The Commission notes that on January 13, 2026, the respondents, of their own accord, elected to provide the complainant with copies of previously and newly released responsive records containing corresponding citations to statutory exemptions for each redaction therein, as described in paragraph 18, above.

Inspection (“Index”). Such in camera records are identified herein as IC-2025-0636-0001 through IC-2025-0636-0077; IC-2025-0636-0989; and IC-2025-0636-1013.⁴

22. It is found that the Index reflects that the respondents withheld certain responsive records, in whole or in part, pursuant to the following permissive statutory exemptions: attorney-client privilege (§1-210(b)(10), G.S.); pending litigation (§1-210(b)(4), G.S.); drafts (§1-210(b)(1), G.S.); and personnel, medical, and similar files (§1-210(b)(2), G.S.).

Attorney-Client Privilege -- §1-210(b)(10), G.S.

23. The respondents contend that most of the records identified on the Index are exempt from disclosure pursuant to §1-210(b)(10), G.S., specifically the attorney-client privilege.

24. Our Supreme Court has stated that a four-part test must be applied to determine whether communications are privileged: “(1) the attorney must be acting in a professional capacity for the agency; (2) the communications must be made to the attorney by current employees or officials of the agency; (3) the communications must relate to the legal advice sought by the agency from the attorney; and (4) the communications must be made in confidence.” *Lash v. Freedom of Info. Comm’n*, 300 Conn. 511, 516 (2011) (“*Lash*”), citing *Shew v. Freedom of Info. Comm’n*, 245 Conn. 149, 159 (1998). “The burden of establishing the applicability of the privilege rests with the party invoking it.” *Harrington v. Freedom of Info. Comm’n*, 323 Conn. 1, 12 (2016) (“*Harrington*”). “If it is clear from the face of the records, extrinsic evidence is not required to prove the existence of the attorney-client privilege.” *Lash*, 300 Conn. at 516-17.

25. Moreover, “[i]n 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.” *PSE Consulting, Inc. v. Frank Mercede & Sons, Inc.*, 267 Conn. 279, 329 (2004).

26. The Supreme Court, however, has also recognized that “[n]ot every communication between attorney and client falls within the [attorney-client] privilege.” *Harrington*, 323 Conn. at 14 (quoting *Ullmann v. State*, 230 Conn. 698, 713 (1994)). In *Harrington*, the Court held that, when an attorney provides both legal and nonlegal professional advice, communications containing such advice will be privileged “if the non-legal aspects of the consultation are integral to the legal assistance given and the legal assistance is the primary purpose of the consultation...” *Harrington* at 17. Under such circumstances, “it is not enough for the party invoking the privilege to show that a communication to legal counsel relayed information that

⁴ The Commission notes that, in a May 27, 2026, after-filed affidavit from the respondent public records director (see “Respondents’ Exhibit 7 (after-filed)”), the respondents withdrew their claims of exemption with respect to the following records identified on the Index: IC-2025-0636-0032 (lines 24, 26-31), IC-2025-0636-0063 (lines 28, 30-31); and IC-2025-0636-0064 (lines 1-4). The respondents represented that such records were previously provided to the complainant. Accordingly, such in camera records will not be addressed further herein.

might become relevant to the future rendering of legal advice. Instead, the communication must also either explicitly or implicitly seek specific legal advice about that factual information.” (Citation omitted; internal quotation marks omitted.) *Id.* at 16.

27. Moreover, it is well established that, generally, disclosure of an attorney-client privileged communication to a third party waives the privilege. *See, e.g., Harp v. King*, 266 Conn. 747, 767 (2003). However, “the presence of certain third parties...who are agents or employees of an attorney or client, and who are necessary to the [legal] consultation, will not destroy the confidential nature of the communication.” *Harrington*, 323 Conn. at 25 (citations omitted).

28. Upon careful in camera inspection, it is found that the following in camera records are communications “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,” which “relate to legal advice” sought by the public agency client from the attorney, which were “transmitted in confidence” or were “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.: IC-2025-0636-0001 (line 6-7); IC-2025-0636-0014 (line 23, beginning with “At,” and line 24); IC-2025-0636-0018 (line 4, beginning with “What”; lines 5-8, ending with the first period; lines 18-28); IC-2025-0636-0019 (lines 1-13); IC-2025-0636-0031; IC-2025-0636-0032 (line 7, beginning with “After;” lines 8-17); IC-2025-0636-0045 (lines 20-22); IC-2025-0636-0058 (lines 3, 16, 18-23); and IC-2025-0636-0059 (lines 13, 15-18, 21-25). It is further found that such privilege has not been waived by the respondents to any third parties for such identified in camera records.

29. Accordingly, it is concluded that the in camera records identified in paragraph 28, above, are exempt from disclosure pursuant to §1-210(b)(10), G.S., specifically the attorney-client privilege.⁵

30. Upon careful in camera inspection, it is found that the following in camera records are not communications “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,” which “relate to legal advice” sought by the public agency client from the attorney, which were “transmitted in confidence” or were “records prepared by the government attorney in furtherance of the rendition of such legal advice,” within the meaning of §52-146r(a)(2), G.S.: IC-2025-0636-0001 (line 3); IC-2025-0636-0014 (lines 3, 5, 20, 22, first word in line 23); IC-2025-0636-0015 (lines 13 and 15); IC-2025-0636-0017 (lines 3, 5, 7-8, 28, 30-31); IC-2025-0636-0018 (line 4, through the period; line 8, beginning after the first period, through line 11); IC-2025-0636-0032 (lines 4, 6, and 7 through the second period); IC-2025-0636-0045 (lines 3, 5,

⁵ The Commission notes that, because the record identified as IC-2025-0636-0031 was concluded to be exempt from disclosure pursuant to §1-210(b)(10), G.S., and the attorney-client privilege, the Commission need not consider whether such record is also exempt from disclosure pursuant to §1-210(b)(1), G.S., which was claimed by the respondents in the alternative.

19); IC-2025-0636-0058 (line 5); IC-2025-0636-0061 (lines 3, 5, 11); and IC-2025-0636-0063 (lines 3, 6, 18-20).

31. Accordingly, it is concluded that the in camera records identified in paragraph 30, above, are not exempt from disclosure pursuant to §1-210(b)(10), G.S., specifically the attorney-client privilege. However, for each of such records, the respondents have claimed §1-210(b)(4), G.S., in the alternative as an exemption to disclosure, as described below.

Pending Litigation -- §1-210(b)(4), G.S.

32. The respondents also contend that the records identified in paragraph 30, above, are exempt from disclosure in the alternative pursuant to the pending litigation exemption in §1-210(b)(4), G.S.

33. Section 1-210(b)(4), G.S., provides that nothing in the FOI Act shall be construed to require the disclosure 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[.]”

34. The phrase “pending claim” 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 or right is not granted.”

35. The phrase “pending litigation” as defined in §1-200(9), G.S., means the following:

(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.

36. Our Supreme Court has determined that “pending” claim or litigation includes claims or litigation “already in existence and in progress,” as well as imminent or threatened litigation not yet filed (*see Bd. of Educ. v. Freedom of Info. Comm’n*, 217 Conn. 153, 161 (1991)) and that “finally adjudicated” means “completion of an appeal to the highest court” or “expiration of a party’s right to appeal” (*see Planning and Zoning Comm’n of the Town of Monroe, et al. v. Freedom of Info. Comm’n, et al.*, 316 Conn. 1, 17-18 (2015)).

37. The Supreme Court has also determined, relying on *Webster’s Third New International Dictionary*, that “strategy” is defined as “the art of devising or employing plans or stratagems.” *City of Stamford v. Freedom of Info. Comm’n*, 241 Conn. 310, 318 (1997). Further, the court stated that “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 discussion and agreements or compromises.” (Internal quotations omitted.) *Id.*

38. It is found that the complainant, in his May 19, 2025, request, stated the following:

This request arises from a documented pattern in which, at every decision point, the University consistently prioritized institutional convenience over equity and due process. My EEOC [U.S. Equal Employment Opportunity Commission] charge of discrimination was filed on May 14, 2025. A formal Title VI complaint is forthcoming.

This communication, and the University’s handling of it, will become part of the growing public records now under federal and state review.

39. It is found that the complainant’s EEOC complaint was filed against the respondent university on May 12, 2025, not May 14, 2025, as represented by the complainant in paragraph 38, above.

40. Based upon the complainant’s aforementioned EEOC complaint, filed on May 12, 2025, and described in paragraphs 38 and 39, above, it is found that the respondents were a party to “pending litigation” within the meaning of §§1-210(b)(4) and 1-200(9)(B), G.S., at the time when they received the complainant’s request on May 19, 2025.

41. Based upon the complainant’s aforementioned Title VI complaint, described in paragraph 38, above, as “forthcoming,” it is found that the respondents were also a party to a “pending claim” within the meaning of §§1-210(b)(4) and 1-200(8), G.S., at the time when they received the complainant’s request on May 19, 2025.⁶

42. Upon careful in camera inspection, it is found that the following in camera records were created prior to May 12, 2025, and therefore do not, and could not, relate to the pending litigation and pending claim described in paragraphs 40 and 41, above, respectively: IC-2025-0636-0001 (line 3); IC-2025-0636-0017 (lines 3, 5, 7-8, 28, 30-31); IC-2025-0636-0018 (line 4, through the period; line 8, beginning after the first period, through line 11); IC-2025-0636-0032

⁶ The Commission notes that the complainant did not commence with his federal civil rights employment discrimination complaint against the respondent university and several of its administrators until approximately three months later, on August 26, 2025. *See Glenn v. University of Connecticut et al.*, Docket No. 3:25-cv-01374-VAB.

(lines 4 and 6, line 7 through the second period); IC-2025-0636-0045 (lines 3, 5, 19); and IC-2025-0636-0063 (lines 3, 6, 18, 19-20).

43. Upon careful in camera inspection, it is further found that the following in camera records, which were created on or after May 12, 2025, do not pertain to “strategy and negotiations with respect to pending claims or pending litigation” within the meaning of §1-210(b)(4), G.S.: IC-2025-0636-0014 (lines 3, 5, 20, 22, line 23 – first word only); IC-2025-0636-0015 (lines 13 and 15); IC-2025-0636-0058 (line 5); and IC-2025-0636-0061 (lines 3, 5, 11).

44. Accordingly, it is concluded that the in camera records identified in paragraphs 42 and 43, above, for which no other exemptions were properly claimed in the alternative, are not exempt from disclosure pursuant to §1-210(b)(4), G.S. It is further concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., when they declined to disclose a copy of such records to the complainant.

Personnel, Medical, or Similar Files -- §1-210(b)(2), G.S.

45. The respondents contend that IC-2025-0636-0989 (line 5) and IC-2025-0636-1013 (line 7) are “personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy” pursuant to §1-210(b)(2), G.S.

46. To prove the applicability of the invasion of privacy exemption under §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). “The burden of establishing the applicability of an exemption ... requires the claimant ... 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.” *Id.* at 176.

47. In *Connecticut Alcohol and Drug Abuse Comm’n. v. Freedom of Info. Comm’n, et al.* (“CADAC”), 233 Conn. 28, 41 (1995), the Supreme Court further expounded on the threshold test for the exemption contained in §1-210(b)(2), G.S.:

We conclude that such a determination requires a functional review of the documents at issue. Just as a “medical” file of an individual has as one of its principal purposes the furnishing of information for making medical decisions regarding that individual, a “personnel” file has as one of its principal purposes the furnishing of information for making personnel decisions regarding the individual involved. If a document or file contains material, therefore, that under ordinary circumstances would be pertinent to

traditional personnel decisions, it is “similar” to a personnel file. Thus, a file containing information that would, under ordinary circumstances, be used in deciding whether an individual should, for example, be promoted, demoted, given a raise, transferred, reassigned, dismissed or subject to other such traditional personnel actions, should be considered “similar” to a personnel file for the purposes of §1-[210](b)(2), G.S.

48. Upon careful in camera inspection, it is found that IC-2025-0636-0989 (line 5) and IC-2025-0636-1013 (line 7) contain the private cell phone numbers of university staff.

49. It is found that neither of the in camera records identified in paragraph 48, above, are “personnel or medical files and similar files” within the meaning of §1-210(b)(2), G.S. Rather, it is found that such records, and the information therein, are related to emails sent from one staff member to another inviting them to engage in telephone conversations and sharing personal phone numbers. Such records are not “medical” files for which one of the principal purposes is to furnish information for making medical decisions regarding that individual; or “personnel” files for which one of its principal purposes is the furnishing of information for making personnel decisions regarding the individual involved; or “similar” files, as contemplated by the Court in *CADAC*.⁷

50. Accordingly, the Commission need not address the second prong of the *Perkins* test and consider whether the (a) information sought pertains to a legitimate matter of public concern and (b) disclosure of such information would be highly offensive to a reasonable person.

51. Consequently, it is concluded that §1-210(b)(2), G.S., is not applicable, and that the redacted information identified in paragraph 48, above, is not exempt from disclosure pursuant to such statute. However, given that such redacted information is nonresponsive to the complainant’s request, the Commission, in its discretion, finds the respondents’ violation of §§1-210(a) and 1-212(a), G.S., to be technical in nature and declines to order the disclosure of such information.

Scope and Sufficiency of Search

52. It is found that, at the May 15, 2026, continued hearing on this matter, the complainant raised, for the first time, the allegation that the respondents did not perform a thorough search for records responsive to his request. Specifically, it is found that the complainant alleged that the respondents should have searched for and provided him with responsive records maintained by the respondent university’s Office of Institutional Equity.

⁷ The Commission notes that the respondents did not put on any evidence that they notified the subject employees, and their collective bargaining representatives, if any, in writing as required under §1-214(b)(1), G.S.

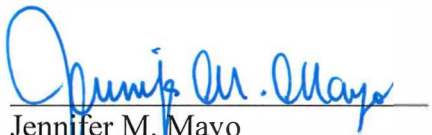
53. It is found that such allegation is outside of the scope of the complaint, described in paragraph 12, above. Accordingly, the Commission will not address such allegation further herein.

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 provide the complainant, free of charge, with electronic copies of the records identified in paragraphs 42 and 43, above.

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

Approved by Order of the Freedom of Information Commission at its regular meeting of July 8, 2026.


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:

JOE GLENN, 40 Country Club Road, Groton, CT 06340

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 P. 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