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FREEDOM OF INFORMATION



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Joseph J. Bango and Connecticut Kids First,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-168

Superintendent of Schools, Cheshire Public Schools; and
Cheshire Public Schools,
Respondent(s)

October 7, 2015

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, October 28, 2015**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE October 16, 2015**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE October 16, 2015**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE October 16, 2015**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Joseph J. Bango
Rebecca Goldberg, Esq.

2015-10-07/FIC# 2015-168/Trans/wrbp/MS/PSP/KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Joseph J. Bango and
Connecticut Kids First,

Complainants

Docket # FIC 2015-168

against

Superintendent of Schools,
Cheshire Public Schools; and
Cheshire Public Schools,

Respondents

August 12, 2015

The above-captioned matter was heard as a contested case on July 15, 2015, at which time the complainants and 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 letter dated January 22, 2015, the complainants made a written request to the respondents for the following:

[a] A list of all student bullying incidents from January 2005 through January 15th 2015 [;]

[b] A list of all incidents of school violence threats from January 2005 through January 15th 2015 [;]

[c] A list of any 911 calls regarding school violence threats from January 2005 through January 15th 2015 [;]

[d] Communications between [the] central office and individual schools regarding bullying and/or threats of violence to staff and/or students [;]

[e] A report of any police response to any Cheshire School from January 2010 through January 15th 2013 [;]

[f] Copies of all contracts for paving and sidewalk work performed at Cheshire Schools, in particular, Doolittle, Norton, and Cheshire High School, which transpired in 2014 [; and]

[g] A copy of budget expenditures during fiscal 2014.

3. It is found that, by letter dated February 25, 2015, the complainants inquired of the respondents as to the status of their January 22nd request, described in paragraph 2, above, and renewed such request.

4. It is found that, by letter dated February 26, 2015, the respondent Superintendent of Schools provided the complainants with documents responsive to the requests described in paragraphs 2[a], 2[f] and 2[g], above. It is also found that the respondent Superintendent informed the complainants that the respondents did not keep records relating to the information requested in paragraphs 2[b], 2[c], 2[d] and 2[e], above, and that they were not required to create records that they did not already hold in their possession.

5. By email dated March 5, 2015, the complainants appealed to the Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the complainants with copies of the records, described in paragraph 2, above. At the hearing in this matter, the complainant Joseph Bango testified that the requests described in paragraphs 2[f] and 2[g], above, are no longer at issue, and therefore, such requests shall not be further addressed herein.

6. Section 1-200(5), G.S., defines “public records or files” as:

any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

Except 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 (1) inspect such records promptly during regular office or business hours . . . (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 “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

9. It is found that the records requested by the complainants, to the extent that they exist, are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S.

10. It is found that the respondents provided the complainants with a document labelled “Verified Acts of Bullying Log” which is responsive to the complainants’ request described in paragraph 2[a], above. It is found that such log indicated the number of bullying incidents from 2009 to January 2015 and already existed at the time of the complainants’ request. It is found that the respondents did not maintain a log that indicated the number of bullying incidents between 2005 and 2009. Further, while the complainant Mr. Bango contended at the hearing that the log provided to the complainant by the respondents failed to account for certain incidents of bullying involving Mr. Bango’s child, it is found that the accuracy of the information in the log is not within the Commission’s purview. See FIC# 2000-261; Dante DeLoreto v. Chief of Police, Police Department, Town of Wethersfield.

11. It is found that the requests described in paragraphs 2[b] and 2[c], above, would require the respondents to create records. It is found that the FOI Act does not require public agencies to create records in response to a request.

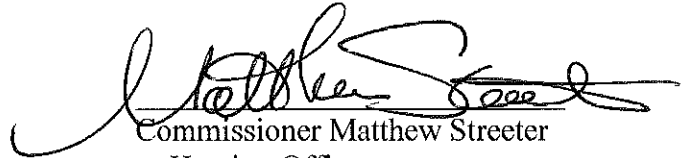
12. With respect to the complainants’ request described in paragraph 2[d], above, the Assistant Superintendent for Instructional Services and District Safe School Climate Coordinator for the Cheshire Public Schools, testified, on behalf of the respondents, that he performed a search for communications between the central office and individual schools. He testified that in addition to searching his own files, he contacted the staff at the central office and building principals, and neither he nor the central office staff or school principals located any records responsive to the complainants’ request described in paragraph 2[d], above. It is found that the respondents do not maintain records responsive to the request described in paragraph 2[d], above.

13. With respect to the complainants’ request described in paragraph 2[e], above, the complainant Mr. Bango maintained that the respondents should have had copies of such records, including records of an incident involving his child. It is found, however, that based on credible testimony provided by the respondents, they did not maintain any records responsive to the request described in paragraph 2[e], above.

14. It is therefore found that the respondents provided the complainant with all documents that the respondents maintained and kept on file at the time of the complainants’ request that were responsive to such request. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is hereby dismissed.



Commissioner Matthew Streeter
as Hearing Officer