

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Valeka Clarke,

Complainant

against

Docket #FIC 2016-0505

Superintendent of Schools, Middletown
Public Schools; and Middletown Public
Schools,

Respondents

February 8, 2017

The above-captioned matter was heard as a contested case on November 4, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The matter was consolidated for hearing with Docket #FIC 2016-0504, Valeka Clarke v. Chairman, Juvenile Review Board, City of Middletown; Juvenile Review Board, City of Middletown; and City of Middletown; and Docket #FIC 2016-0507, Valeka Clarke v. Chief, Police Department, City of Middletown; Police Department, City of Middletown; and City of Middletown.

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 June 14, 2016, the complainant sent a 20-part request for copies of records to the respondent serintendent.
3. It is found that the respondents acknowledged the complainant's request by email sent on June 14, 2016.
4. It is found that, on Friday, July 8, 2016, the complainant emailed the respondents and asked when the requested records would be provided to her.
5. It is found that on Monday, July 8, 2016, the superintendent sent an email to the complainant in which she apologized for the delay, and explained, "your list is quite extensive and we are working around summer schedules to accomplish the task. Be assured the staff continue to work on your request. I can give you an update in another two weeks on our progress."

6. It is found that, on July 12, 2016, the complainant sent an email to the superintendent in which she described the superintendent's response to the request for records as a "reinforced patternized delay(s) which is both egregiously unethical and unacceptable."

7. By letter filed July 14, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records she requested.

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

Public 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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

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, ... or (3) receive a copy of such records in accordance with section 1-212.

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

11. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

12. It is found that, on July 14, 2016, the superintendent wrote to the complainant, and told her that they had records ready to give her. It is found that the superintendent set forth the respondents' records that were responsive to each of the 20 categories of records requested. It is found that the superintendent also informed the complainant that there were 171 pages of responsive records.

13. The complainant alleged that the respondents were not prompt in providing the requested records.

14. With regard to the question of promptness, the Commission has held that the meaning of the word "promptly" is a particularly fact-based question. In 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), 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.

15. 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.

16. It is found that the complainant made her request at the end of the school year, a busy time for the respondents, followed by vacation schedules during the summer weeks. It is found that some of the records were maintained in the respondents’ business office, which was in the process of implementing a new financial system. It is found that the complainant’s request was for 20 different categories of records.

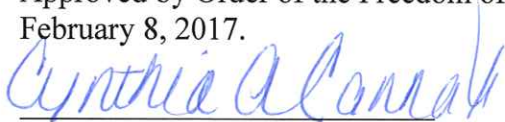
17. It is found, under the circumstances, that the respondents complied with the complainant’s request in a prompt manner, based on the superintendent’s testimony at the hearing in this matter.

18. It is concluded that the respondents did not violate the FOI Act as alleged.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 8, 2017.



Cynthia A. Cannata
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:

Valeka Clarke
38 Santangelo Circle
Middletown, CT 06457

Superintendent of Schools, Middletown Public Schools;
and Middletown Public Schools
c/o Christopher Smedick, Esq.
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245 DeKoven Drive
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Cynthia A. Cannata
Acting Clerk of the Commission