

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Nicholas Sheppard,

Complainant

Docket # FIC 2018-0590

against

Dean of Student Affairs, State of Connecticut,
Manchester Community College; and State of
Connecticut, Manchester Community College,

Respondents

June 26, 2019

The above-captioned matter was heard as a contested case on February 21, 2019, at which time the complainant 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, on April 12, 2018, the complainant emailed the respondents requesting documents pertaining to him and “disciplinary issues” at Manchester Community College (“MCC”) in 2014-2015. It is found that on July 11, 2018, the respondents provided the complainant with some records responsive to such request. It is found that the complainant subsequently made several requests to the respondents for “supplemental documents,” including an October 15, 2018 request, described in paragraph 3, below.
3. It is found that on October 15, 2018, the complainant sent an email to the Executive Director of Student Relations & Compliance for Connecticut State Colleges & Universities (“Executive Director”), which stated the following:

I request that you please look into my concerns regarding supplemental documents and apprise me of any pertinent revelations and/or developments A.S.A.P.

Once again, My [sic] understanding is that I have the right to receive, review, and retain ANY and ALL documents pertaining to my ‘disciplinary’ case that M.C.C. may have in its possession.

Please correct me if I am wrong and expeditiously furnish me with ANY and ALL relevant documentation you may be able to procure from the officials at M.C.C. [Emphasis in original].

It is found that after the filing of the complaint in this matter, the complainant was provided with additional responsive records.

4. By email received and filed on October 18, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to respond to his October 15, 2018 request, described in paragraph 3, above. At the hearing, the complainant requested that the Commission null and void certain administrative decisions made by the respondents in 2014.

5. 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.

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

7. 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.”

8. 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.

9. At the hearing, the complainant acknowledged that he received some records responsive to his records request, but contended that there are additional documents (e.g., emails) that were not provided.

10. At the hearing, the respondents contended that they understood the complainant’s records request to be part of an effort by the complainant to discharge his disciplinary record at MCC. The Executive Director testified that the respondents searched the complainant’s

“disciplinary file,” retained by MCC’s Student Affairs Office, and that all records responsive to the complainant’s request were provided to the complainant. The respondents acknowledged that they provided a memorandum to the complainant that referenced certain emails that were not provided. The Executive Director testified that such emails were not part of the complainant’s “disciplinary file,” and were therefore not provided. The Executive Director testified that the memorandum detailed a 2014 incident and allegations that were filed against the complainant, and that he believed the emails referenced therein were used to formulate the disciplinary proceeding back in 2014.

11. It is found that the complainant sought all documents, wherever located, relating to his disciplinary issues while at MCC. It is therefore found that the respondents’ interpretation of the records request to include only records maintained in the complainant’s “disciplinary file,” was unreasonable.

12. It is found that the respondents failed to provide the complainant with all records responsive to his records request.

13. It is concluded that the respondents violated the disclosure provisions of §1-210(a), G.S., as alleged by the complainant.

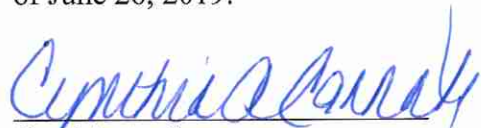
14. Notwithstanding the conclusion in paragraph 13, above, the Commission declines to order the remedy requested by the complainant at the hearing in this matter.

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

1. The respondents shall undertake another search for records, including emails, responsive to the complainant’s records request, and provide the complainant with a copy of such records, free of charge.

2. 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 June 26, 2019.



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:

NICHOLAS SHEPPARD, 41 Cinnamon Springs, South Windsor, CT 06074

DEAN OF STUDENT AFFAIRS, STATE OF CONNECTICUT, MANCHESTER COMMUNITY COLLEGE; AND STATE OF CONNECTICUT, MANCHESTER COMMUNITY COLLEGE, c/o Assistant Attorney General Mary K. Lenehan, Office of the Attorney General, 55 Elm Street, PO Box 120, Hartford, CT 06141-0120



Cynthia A. Cannata
Acting Clerk of the Commission