

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Denise Cohn,

Complainant

against

Docket #FIC 2018-0305

Pam Vogel, Superintendent of Schools,
Regional School District #1; Chairman,
Board of Education, Regional
School District #1; Board of Education,
Regional School District #1; and
Regional School District #1,

Respondents

February 27, 2019

The above-captioned matter was heard as a contested case on November 15, 2018, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The Commission takes administrative notice of the factual findings and conclusions of law in Docket #FIC 2018-0293, Jessica Stedman v. Pam Vogel, Superintendent of Schools, Regional School District #1, et al.

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 eight separate letters, each dated May 10, 2018, the complainant requested from the respondents copies of, or the opportunity to inspect:
 - (a) the superintendent's current contract and the mutually agreed upon goals set forth between Dr. Vogel and the Board of Education;
 - (b) all agreements with, payments made to, and invoices received from any and all attorneys at Shipman and Goodwin law firm, from July 1, 2017 through May 10, 2018;

(c) all agreements with, payments made to, and invoices received from Connecticut Association of Boards of Education from July 1, 2017 through May 10, 2018;
(d) all agreements with, payments made to, and invoices received from Baldwin Media and Ann Baldwin, from July 1, 2017 through May 10, 2018;

(e) any and all emails to and from all and any Associates, Committee Members, Area Directors, Staff, City Representatives, Boards of Directors, Volunteers, Consultants, or Employees of Connecticut Association of Boards of Education, to and from any and all members, past and present, of the Region One Board of Education, Dr. Pamela Vogel and Lisa Carter, between July 1, 2017 through May 10, 2018;

(f) any and all emails, to and from (including cc'd and bcc'd emails) Attorney Thomas Mooney and Attorney Gary Brochu, and any associates or employees of Shipman and Goodwin law firm, to and from any and all members past and present, of the Region One Board of Education, Dr. Pamela Vogel and Lisa Carter between July 1, 2017, and May 10, 2018;

(g) any and all emails to and from Ann Baldwin, Ann Baldwin of CABA, and any associates or employees of Baldwin Media, to and from any and all members, past and present, of the Region One Board of Education, Dr. Pamela Vogel and Lisa Carter between July 1, 2017 and May 10, 2018;

(h) any and all emails that were sent, received, cc'd or bcc'd between any and all of the following Region One Board Members and Region One Administration including Board Chairperson Robert/Bob Whelan, Jonathan Moore, Jenifer Weigel, John Sanders, Douglas Humes, Stephanie Raferty, Patricia Mechare, Dr. Pam Vogel and Lisa Carter during the period of January 1, 2018 through May 10, 2018.

3. It is found that, by letter dated May 15, 2018, the respondent superintendent acknowledged receipt of the eight requests, and informed the complainant that the respondents would begin to gather records responsive to such requests after they completed their responses to four records requests made by Jessica Stedman, an associate of the complaint, approximately one month earlier. The superintendent also informed the complainant that, because her requests

were broad in scope, she would not be able to provide the requested records within four business days.

4. It is found that, despite the superintendent's May 15th letter, the school district's business manager, to whom several of the eight requests also were directed, notified the complainant that certain responsive records would be available for her to pick up on May 15, 2018. Before the complainant had an opportunity to pick up copies of those records, however, the business manager informed the complainant that, in fact, the records were not available to be picked up because the district was working to fulfill other records requests that had been filed prior to hers.

5. By letter dated June 7, 2018 and filed June 11, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the requests, described in paragraph 2, above.

6. 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 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:

[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 inspect such records promptly during regular office or business hours...or...receive a copy of such records in accordance with section 1-212.

8. 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.”

9. It is found that the records responsive to the requests, described in paragraph 2, above, maintained or kept on file by the respondents at the time of the request, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is found that the respondents provided copies of all records responsive to the requests, described in paragraph 2(a) through 2(d), above, to the complainant, at the end of July, 2018. The complainant argued, at the hearing in this matter, that the respondents failed to provide such records to her promptly.

11. With regard to the complainant's claim, it is found that it is the school district's policy to fulfill records requests in the order in which they are received. According to the superintendent, she alone is authorized to review the district's records in order to determine whether any records, or portions thereof, are exempt from disclosure, and that all responsive records have been gathered. The superintendent further testified that the business manager was not authorized to provide responsive records to the complainant without her having first reviewed such records.

12. It is found that a record responsive to the request, described in paragraph 2(a), above, also had been requested by, and provided to, Ms. Stedman approximately one week prior to the complainant's request for that same record.¹

13. Therefore, because the respondents had already gathered and reviewed the record, it is found that they could and should have provided it to the complainant at the time she requested it. Thus, it is found that the respondents failed to provide the record, described in paragraph 12, above, to the complainant promptly.

14. On the other hand, the superintendent testified that she needed to review the records responsive to the requests, described in paragraphs 2(b), 2(c), and 2(d), above, before they were provided to the complainant, and it is found that it was reasonable for the respondents to fulfill records requests in the order in which they were received. It is found that, at the time of the complainant's records requests, the respondents were continuing to fulfill Ms. Stedman's earlier filed records requests, which required the superintendent to review thousands of pages of emails for possible redactions. In addition, during this time, the superintendent's other responsibilities associated with her position as superintendent of Regional School District #1 and as superintendent for six local school districts were significant and time-consuming. (See paragraph 24 of Final Decision in Docket #FIC 2018-0293, Jessica Stedman v. Pam Vogel, Superintendent of Schools, Regional School District #1, et al.)

15. Based upon the foregoing facts, it is found that the respondents provided the records responsive to the requests described in paragraphs 2(b), 2(c), and 2(d), above, to the complainant promptly.

16. With regard to the requests, described in paragraphs 2(e) through 2(h), above, as of the date of the hearing in this matter, the respondents had not provided any responsive records to the complainant. It is also found that, as of the date of the hearing in this matter, the respondents were continuing to work on the last of Ms. Stedman's records requests, but had not yet fulfilled such request. The superintendent estimated that there would be approximately

¹ Although the respondents maintained a copy of the contract, they did not maintain a copy of the goals at the time of the request.

2,000 emails responsive to Ms. Stedman's final request, which emails would need to be reviewed and possibly redacted.

17. It is found that the superintendent has taken her responsibilities under the FOI Act seriously and has dedicated time each week to fulfilling Ms. Stedman's requests. Based on this finding, the Commission anticipates that the superintendent will continue to take her requests, once she has fulfilled Ms. Stedman's requests.

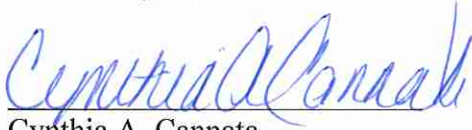
18. Based upon all of the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with regard to the requests described in paragraphs 2(e) through 2(h), above.

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

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

2. The Commission anticipates that the respondents will continue to work diligently toward providing all additional responsive records to the complainant without undue delay. To the extent that any responsive records are claimed to be exempt from disclosure and therefore withheld from the complainant, the Commission suggests that the respondents so inform the complainant.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 27, 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:

DENISE COHN, 25 Deer Road, Falls Village, CT 06031

PAMELA VOGEL, SUPERINTENDENT OF SCHOOLS, REGIONAL SCHOOL DISTRICT #1; CHAIRMAN, BOARD OF EDUCATION, REGIONAL SCHOOL DISTRICT #1; BOARD OF EDUCATION, REGIONAL SCHOOL DISTRICT #1; AND REGIONAL SCHOOL DISTRICT #1, c/o Attorney Thomas B. Mooney, Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103-1919



Cynthia A. Cannata
Acting Clerk of the Commission