

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Marcy Taliceo,

Complainant

against

Docket #FIC 2018-0298

Chief Personnel Officer,
Enfield Public Schools; and
Enfield Public Schools,

Respondents

February 27, 2019

The above-captioned matter was heard as a contested case on August 3, 2018, at which time the complainant and the 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 email dated April 25, 2018, the complainant requested that John Coccia, the Chief Personnel Officer for Enfield Public Schools, provide her with copies of the following:
 - a. Contracts, fees, legal expenses for Chinni & Meuser LLC since January 1, 2015; and
 - b. Data on all of the PPT¹ referrals and data on all of the PPTs held as a result of said requests since January 1, 2015.
3. It is found that, by email dated April 25, 2018, the respondents acknowledged the complainant's request, and indicated that they were processing the request.

¹ PPT is the acronym for a Planning and Placement Team.

4. It is found that, by email dated May 22, 2018, the complainant requested that the respondents provide her with a status update on her request.

5. It is found that, by email dated May 25, 2018, the complainant again requested that the respondents provide her with a status update on her request.

6. It is found that, by email dated May 25, 2018, the respondents informed the complainant that the requested records should be ready for her by May 29, 2018.

7. It is found that, by email dated May 29, 2018, the complainant informed the respondents that she had picked up the requested records, but wanted to know why the records responsive to her first request did not include any actual contracts for the provision of legal services, and why the records responsive to her second request did not include "data" regarding PPTs.

8. It is found that, by email dated May 29, 2018, the respondents informed the complainant that any agreement between the Board of Education ("BOE") and a law firm concerning the provision of legal fees is exempt from public disclosure pursuant to the attorney-client privilege. It is found that the respondents also informed the complainant that, with regard to her request for PPTs, there were no documents containing information or data about the PPTs, and that, if the complainant wanted actual PPT invoices, they would have to be redacted to remove confidential information. Finally, it is found that the respondents informed the complainant that there were approximately 50 pages of invoices and that the cost for these records would be fifty cents per page.

9. It is found that the complainant informed the respondent that she wanted copies of the invoices.

10. It is found that, by email dated June 4, 2018, the respondents informed the complainant that the invoices were in the process of being redacted and that, once the redactions were complete, they would contact her and inform her of the total cost.

11. It is found that, by email dated June 5, 2018, the complainant reasserted that she wanted any contracts between the BOE and any law firms providing the BOE with legal services.

12. It is found that, by email dated June 5, 2018, the respondents reasserted that it was their position that such agreements or contracts are privileged and, accordingly, would not be disclosed.

13. By letter dated and filed June 5, 2018, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide her with all of the records responsive to the request in paragraph 2, above.

14. 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, 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.

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

16. 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.”

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

18. At the start of the contested case hearing, the complainant withdrew her request for records set forth in paragraph 2.b, above.

19. With regard to the request set forth in paragraph 2.a, above, it is found that the respondent provided the complainant with 85 pages of invoices. It is further found that the respondents provided the invoices to the complainant in four installments, the first of which occurred on May 29th and the last of which occurred on July 18th.²

20. It is found that invoices detailed the legal services provided by Chinni & Meuser LLC to the BOE for calendar years 2015 through 2018. It is further found that all responsive invoices were disclosed to the complainant.

21. It is found that the complainant was displeased with invoices, because she could not reconcile the amount budgeted to the BOE for legal work with the total costs of legal services contained in the invoices. It is found that the complainant had questions

² The complainant did not challenge the redactions that the respondents made in the invoices.

about why the Town's budget documents and the invoices for legal services could not be reconciled. However, the hearing officer explained to the complainant at the hearing that, because all of the responsive invoices had been disclosed, the Commission could not force the respondents to answer questions concerning potential accounting errors that the complainant perceived in the records, and the complainant accepted this explanation. See, e.g., Chad St. Louis v. Chief Med. Examiner, State of CT, Office of the Chief Med. Examiner, et al., Docket #FIC 2009-389 (May 4, 2010) (dismissing the complainant's appeal concerning the respondents' failure to answer questions because "nothing in the FOI Act requires public agencies to answer questions").

22. In addition, it is found that, while the respondents initially claimed that a record responsive to the request set forth in paragraph 2.a, above, was privileged, they ultimately disclosed such record to the complainant the day before the contested case hearing.

23. It is found that the complainant was displeased with the nature of the record referred to in paragraph 22, above. The complainant contended that this record did not seem to be a contract in the traditional sense because it was a very simple 1-page letter from Chinni & Meuser LLC to the Superintendent of Enfield Public Schools, setting forth the rates for legal services during the 2017 calendar year.

24. It is found, however, that this record is the only record in the respondents' possession that discusses the agreement between the Superintendent and Chinni & Meuser LLC with regard to the provision of legal services.

25. Finally, the complainant contended that the responsive records, particularly the 1-page record referred to in paragraph 22, above, were not provided to her promptly.

26. The Commission has previously opined that the word "promptly" in §1-210, G.S., means "quickly and without undue delay, taking into account all of the factors presented by a particular request . . . [including] the volume of statements requested; the amount of personnel time necessary to comply with the request; the time by which the requester needs the information contained in the statements; 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 loss of the personnel time involved in complying with the request." See FOI Commission Advisory Opinion #51 (Jan. 11, 1982). The Commission also recommended in Advisory Opinion #51 that, if immediate compliance is not possible, the agency should explain the circumstances to the requester.

27. Based on the testimony provided at the hearing, it is found that the invoices for legal services which were disclosed to the complainant needed to be gathered, reviewed and then redacted before they could be disclosed. It is found that the respondents promptly gathered, reviewed and disclosed the responsive invoices to the complainant.

28. It is further found that, with regard to the 1-page record referred to in paragraph 22, above, the respondents genuinely believed that such record was protected from public disclosure by the attorney-client privilege. It is found that the respondents promptly informed the complainant that they maintained this record and they also promptly informed the complainant what their legal theory was for not disclosing the record to her. Ultimately, it is found that the respondents either determined that their legal theory was not sound, or that, in this particular case, it would be best to disclose the record to the complainant.

29. Based on the facts and circumstances of this case, it is concluded that the respondents promptly provided the responsive records to the complainant. It is further concluded that the respondents did not violate of 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 dismissed.

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:

MARCY TALICEO, 23 Coolidge Drive, Enfield, CT 06082

CHIEF PERSONNEL OFFICER, ENFIELD PUBLIC SCHOOLS; AND ENFIELD PUBLIC SCHOOLS, 1010 Enfield Street, Enfield, CT 06082



Cynthia A. Cannata
Acting Clerk of the Commission