

**FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT**

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WESTON BOARD OF EDUCATION & WESTON PUBLIC SCHOOLS	:	
Petitioners,	:	
	:	
v.	:	
	:	
GREGG HAYTHORN & JENNIFER HAYTHORN	:	
	:	
Respondents.	:	February 27, 2023
	:	

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**PETITION FOR RELIEF FROM VEXATIOUS REQUESTERS  
AND MOTION THAT THE COMMISSION DENY LEAVE TO  
SCHEDULE FURTHER HEARINGS**

For more than three years and counting, Gregg Haythorn and Jennifer Haythorn (the “Respondents”) have buried the Weston Public Schools and the Weston Board of Education (the “Board”) (together, the “Petitioners” or the “District”) in an avalanche of voluminous records requests, uncivil communications, and complaints filed with the Connecticut Freedom of Information Commission (the “Commission”). The District has spent an exorbitant amount of time and resources diligently responding to the Respondents’ Freedom of Information Act (“FOIA”) requests (115 as of February 27, 2023) (the “FOIA Requests”) and then defending those responses in multiple complaints before the Commission (nine as of February 27, 2023) (the “FOIA Complaints”). Moreover, the Respondents have treated District employees, Board members, and agents with profound disrespect and incivility, spewing vitriolic commentary in emails and public statements. Notwithstanding this treatment, the District has dutifully fulfilled its obligations under the FOIA and patiently tolerated the Respondents’ abuse of process. Indeed, since 2019, and through one of the most severe pandemics the world has ever experienced, the

District has acted in good faith, remained steadfast in its commitment to the letter and spirit of the FOIA, and viewed a petition of this nature as a last resort. It cannot continue.

The District is not alone in recognizing the Respondents' egregious abuse of the FOIA. An article published recently in a local online journal does not mince words in describing the burden the Respondents have imposed on the District and the Town of Weston. *See* Ted Craft, *Freedom of Information Director Says "Enough,"* Weston Today, Jan. 24, 2023, <https://westontoday.news/articles/230124-foi-commission>. The article begins with the following overview, using phrases such as "ceaseless barrage" and "deluge" to describe the Respondents' FOIA Requests:

For over three years, a ceaseless barrage of Freedom of Information Act (FOIA) demands and complaints filed by two residents has cost Weston taxpayers an amount approaching \$250,000 for legal services. . . .

Costs have also been imposed on taxpayers for hundreds of staff hours at Town Hall and on School Road, time spent collecting tens of thousands of documents and vetting them to ensure they can legally be disclosed.

It has become necessary to hire additional staff whose only job is to respond to FOIA requests, and volunteers who serve the community have been burdened with demands to search for records and attend hearings.

In short, the need for the Commission's intervention is imperative and urgent.

For the reasons detailed more fully below, the District respectfully requests that the Commission grant this Petition for Relief from Vexatious Requesters and Motion that the Commission Deny Leave to Schedule Further Hearings (the "Petition"). First, the Commission should order that the Petitioners need not respond to any FOIA requests submitted by the Respondents for a period of one year because the Respondents are vexatious requesters within the meaning of the FOIA, as the Commission has interpreted such meaning in a recent vexatious requester decision. *See* Conn. Gen. Stat. § 1-206(b)(5); *see also* *Petition for Relief from*

*Vexatious Requester by Town of East Lyme, et al. v. Godbout*, PRVR #1 ¶ 50 (Feb. 26, 2020) (“*Godbout*”). Second, the Commission should continue to deny leave to schedule further hearings regarding the Respondents’ appeals to the Commission because the scheduling of such hearings “would constitute an abuse of the Commission’s administrative process” and would “perpetrate an injustice.” *See* Conn. Gen. Stat. § 1-206(b)(2). Finally, the District requests that the Commission award any other relief the Commission deems appropriate in light of the circumstances described herein.

## I. RELEVANT BACKGROUND

Between September 2019 and the date of this Petition (the “Filing Date”), the Respondents have submitted 115 FOIA Requests to the District, many of which are extraordinarily broad in scope and have required District staff to review a significant volume of potentially responsive records. For example, in response to three FOIA Requests at issue in *a single* FOIA Complaint, the Hearing Officer found that the District had provided approximately 32,000 pages of records to the Respondents, that “the number of records required to be reviewed prior to providing those pages to the [Respondents] was significantly higher,” and that the District had spent approximately 150 hours responding to those three requests. *Haythorn*, Docket #FIC 2020-0634 ¶ 16 (Oct. 12, 2022).

On several occasions, the Respondents made multiple FOIA Requests on a single day. Many of the FOIA Requests are verbose and lack clarity, leaving the District guessing as to what the request is actually seeking and in what order of priority. Notwithstanding these challenges, the District at all times has endeavored to respond promptly and diligently to the FOIA Requests, often asking the Respondents to clarify their FOIA Requests and identify priorities. As of the

Filing Date, the District has recorded spending at least 308 hours responding to the FOIA Requests; however, District staff have reported that the actual time they have spent responding to the FOIA Requests far exceeds that which has been memorialized in writing. *See Haythorn*, Docket #FIC 2021-0470 (July 27, 2022) (explaining that there may be time the Superintendent, the Executive Assistant to the Superintendent, and the Director of Digital Learning have spent on the FOIA Requests that may not be reflected on the timesheet). Even with this extraordinary level of effort, ten of the 115 FOIA Requests remain outstanding. There is simply no end to the burden the Respondents have placed on District staff.

Moreover, the Respondents communicate via email with District administrators and Board members on a frequent basis, often multiple times per day, and the content of such communications often is uncivil and disrespectful. Indeed, for years, the Respondents' emails and public statements directed toward the District have been distracting, demoralizing, and abusive.

Finally, the Respondents have filed nine FOIA Complaints against the Petitioners as of the Filing Date.<sup>1</sup> Seven of those FOIA Complaints concerned records requests, and two concerned the meetings provisions of the FOIA. In every FOIA Complaint concerning records that has proceeded to hearing and in which a decision has been rendered, the Commission has determined that the District did not violate the FOIA and instead responded promptly and diligently to the request(s) at issue. *See* Docket #FIC 2020-0634, Docket #FIC 2021-0323, Docket #FIC 2021-0470.

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<sup>1</sup> As of the Filing Date, the Respondents have filed the following FOIA Complaints against the Petitioners of which the Petitioners are aware: Docket #FIC 2020-0634; Docket #FIC 2021-0299; Docket #FIC 2021-0323; Docket #FIC 2021-0470; Docket #FIC 2021-0554; Docket #FIC 2022-0079; Docket #FIC 2022-0083; Docket #FIC 2022-0084 (withdrawn by the Respondents); and Docket #FIC 2022-0051.

In one of the two FOIA Complaints that alleged a violation of the FOIA’s meetings provisions, the Respondents alleged that the Board had violated the FOIA by not recording a special meeting held remotely. The Commission dismissed that complaint on the basis that the Board is not required to record remote special meetings. *Haythorn*, Docket #FIC 2021-0554 (August 24, 2022). In the other meeting-related FOIA Complaint, the Commission simply agreed with what the Petitioners had already admitted and for which they had already publicly apologized in writing by posting such apology on their website: that the Petitioners had inadvertently held an illegal meeting when they communicated electronically about a Board-related public statement. *Haythorn*, Docket #FIC 2021-0299 (Jan. 4, 2023). Notably, that public statement was read in its entirety at the Board’s regular meeting the day after those electronic communications were exchanged among the Petitioners, highlighting the irony of the notion that the Board was somehow concealing the statement from the public. It is also noteworthy that the purpose of the statement was to call for civility following the Respondents’ ad hominem attack against the Board Chair and their insistence that the Board Chair resign. Despite the Petitioners’ admission of the violation and public apology, the Respondents nevertheless insisted on proceeding to a hearing and wasting precious District and Commission time and resources in doing so.

With respect to the remaining FOIA Complaints, the Commission has ruled that three such complaints should not proceed to a hearing because such hearings “would constitute an abuse of the Commission’s administrative process” and would “perpetrate an injustice” pursuant to Conn. Gen. Stat. §§1-206(b)(2)(B), (C). *Haythorn*, Docket #FIC 2022-0051, Docket #FIC 2022-0079, Docket #FIC 2022-0083. The Petitioners are hereby requesting that the Commission decline to hear any additional FOIA complaints the Respondents may file in the future.

## II. ARGUMENT

### A. The Respondents Should be Deemed Vexatious Requesters and the Petitioners Should Not be Required to Respond to the Respondents' FOIA Requests for a Period of One Year.

The Commission should find that the Respondents are vexatious requesters of public records and accordingly grant this Petition pursuant to Connecticut General Statutes Section 1-206(b)(5) ("Section 1-206(b)(5)"). Section 1-206(b)(5) provides, in relevant part:

[A] public agency may petition the commission for relief from a requester that the public agency alleges is a vexatious requester. Such petition . . . shall detail the conduct which the agency alleges demonstrates a vexatious history of requests, including, but not limited to: (A) The number of requests filed and the total number of pending requests; (B) the scope of the requests; (C) the nature, content, language or subject matter of the requests; (D) the nature, content, language or subject matter of other oral and written communications to the agency from the requester; and (E) a pattern of conduct that amounts to an abuse of the right to access information under [the FOIA] or an interference with the operation of the agency. . . .

*Id.* The Commission has adopted the common dictionary definition of the term "vexatious" for purposes of assessing a petition pursuant to Section 1-206(b)(5) – *i.e.*, "causing vexation: distressing; intended to harass." *Godbout*, PRVR #1 ¶ 50.

The Commission's decision in *Godbout* is instructive. Specifically, in *Godbout*, the Commission granted the petitioners' Petition for Relief from Vexatious Requester (the "*Godbout* Petition") based on a finding, among other factors, that (1) the respondent's requests were "voluminous in both number and content" and a number of them "aim[ed] to frustrate agencies, or to 'pile on'"; (2) "a number of the [r]espondent's requests and conduct [were] often disrespectful, abusive and concerning" and were "often taunting in nature"; (3) the respondent "never appear[ed] to be satisfied with the responses he receive[d], which in turn, [led] to additional requests and accompanying conduct"; (4) the respondent's "requests and conduct

[were] recurring, repetitive and unrelenting; and that the objective of such requests and conduct [was] often to annoy or hassle rather than to obtain public access”; (5) “the cumulative nature of the [r]espondent’s requests and conduct . . . [had] a decidedly detrimental effect on the Petitioners,” had been “disruptive” and had “significantly hampered the Petitioners’ responsibilities and functions”; and (6) “the [r]espondent’s requests and conduct [were] distressing and intended to harass the Petitioners.” *Godbout*, PRVR #1 ¶¶ 50-66. All of these factors apply equally here.

As discussed more fully below, each consideration listed under Section 1-206(b)(5), as the Commission has interpreted them in *Godbout*, supports a determination that the Respondents are vexatious requesters. Accordingly, this Petition should be granted and the Commission should award the maximum relief permitted.

**i. The voluminous nature of the FOIA Requests supports a determination that the Respondents are vexatious requesters.**

The Commission granted the *Godbout* Petition based in part on the fact that the respondent’s requests were “voluminous in both number and content” and a number of them “aim[ed] to frustrate agencies, or to ‘pile on.’” *Godbout*, PRVR #1 ¶ 55. The FOIA Requests here clearly meet these criteria.

For a period of more than three years, the Respondents have submitted an extraordinary number of FOIA Requests to the Petitioners. Specifically, between September 2019 and the Filing Date, the Respondents have submitted 115 FOIA Requests. *See Ex. 1* (Haythorn FOIA Requests Spreadsheet).<sup>2</sup> Jodi Sacchetta, the Administrative Assistant to the Superintendent for

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<sup>2</sup> Exhibit 1 includes a summary of the FOIA Requests submitted as of the Filing Date. The Petitioners will provide a copy of any or all FOIA Requests as standalone records upon request by the Executive Director and/or Commission.

the District, has described the number of the Respondents' FOIA Requests as "unprecedented" compared to the number of FOIA Requests submitted by other members of the public. *See Haythorn v. Chairman, Board of Education, Weston Public Schools, et al.*, Docket #FIC 2021-0470 (July 27, 2022) (describing number of requests submitted by the Respondents as "much greater" than those submitted by other members of the public – "an unprecedented amount"). Similarly, in *Godbout*, the Commission concluded that the respondent was "by far the person who ma[de] the most FOI requests in town." *See Godbout*, PRVR #1 ¶ 55.

Not only have the Respondents submitted an unprecedented number of FOIA Requests to the Petitioners, but many of those requests have been extremely broad in scope. For example, some of the requests spanned date ranges of nine, sixteen, and twenty years; some required the District to conduct searches that generated thousands of potentially responsive records (*e.g.*, one request generated approximately 8,000 potentially responsive records, *see Ex. 2*,<sup>3</sup> and another generated approximately 15,000 potentially responsive records, *see Ex. 3*); some required searches for records pertaining to many individuals and entities (*e.g.*, one request sought records among all former and current Board members, Town of Weston officials, Town of Weston staff, District administrators, District staff, District contractors, District consultants, District sales agents, District representatives, etc.); some asked the District to search many types of records, including documents, communications, work and personal emails, text messages, analyses, handwritten and electronic notes, worksheets, spreadsheets, correspondence, reports, and data; and some pertained to inherently wide-ranging subject matters (*e.g.*, one request sought records pertaining to "educational/academic 'intervention,' remedial or mitigating educational and

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<sup>3</sup> The unusual characters that appear in several of the email exhibits are not part of the original emails, but rather a result of the subsequent exporting and processing of those emails.

administrative efforts, academic performance analysis”). The following are examples of FOIA

Requests which are extremely broad in scope:

- On September 11, 2019, the Respondents requested “all written and internal District communications, worksheets, spreadsheets, reports, etc. for the school years 2000-2020 which reference or include multi-year projections, plans, targets, estimates, etc.” *See Ex. 4.*
- On November 1, 2019, the Respondents requested “all written and electronic communications between any Weston District employee or representative and Silver and Petrocelli dated calendar years 2016 – 2019.” *See Ex. 5.*
- On November 5, 2020, the Respondents requested “[a]ll Weston Board of Ed member and Cabinet-level District Administrator hand-written and electronic notes, worksheets, correspondence, emails (active, archived, and deleted whether generated by a BoE member or received by the BoE member directly or as a cc) from Town-issued and personal accounts, presentation materials, analysis, social media posts (draft and final versions), pertaining to the 2020/2021 District and Town budget review, deliberation, creation, and approval process, for the dates October 1, 2019 – July 30, 2020. Specifically, email records would include (but not be limited to) those between private residents, DTC members, other Board members of all 3 Boards, District Cabinet members, demographers, etc. pertaining in any way to the 2020/2021 budget (meetings, workshops, presentations, deliberations, hearings, approval, votes, motions, worksheets, etc.).” *See Ex. 6.*
- On May 6, 2021, the Respondents requested “copies of all records, documents, communications, analysis, notes, between and among FOC members and all Town and District/WPS/BOE, officials, employees, Town and WPS/BOE contractors (specifically but not exclusively, Silver & Petrucelli and Milone & MacBroome), and their agents, in both written and electronic form, pertaining to the completion, creation, timing and scheduling, goals and deliverables/anticipated output, and work conduct of the Weston FOC, including any and all reference to the WPS facilities, enrollment, capacity, bonding, operation, spending and budgeting, consulting studies including Milone & MacBroome (and future entities), and Silver & Petrucelli, for the dates 2-1-2019 – 5-4-2021.” *See Ex. 7.*
- On August 10, 2021, the Respondents requested “all records, text messages, emails, documents, notes, communications, etc. as specified in the April 12th records request of Town of Weston officials regarding the 2020 investigation and analysis by the BoE, Central Office, and Town officials (and others) of alternatives to the WPS State Partnership Health Plan, including with insurance vendors, carriers, brokers, agents, and providers, as well as all State of CT

elected, appointed, and paid officials including but not limited to Anne Hughes and the State of CT Comptroller and the staff.” *See Ex. 8.*

- On January 28, 2022, the Respondents requested “copies of all records pertaining to the subject of educational / academic ‘intervention,’ remedial or mitigating educational and administrative efforts, academic performance analysis for WPS and comparison to other CT Districts for grades and subjects (as well as Districtwide), research and evaluation of all ‘intervention’ and remediation educational ‘options’ and resources, budget-pertinent considerations and review of such options, plans, and initiatives, academic and educational goal setting and measurements as well as performance review, process, and format, academic / emotional subject ‘enrichment’ and similar terminology including but not limited to ‘TAG,’ etc., additional staffing needs assessment, evaluation, and hiring, existing WPS staff performance evaluation, feedback, and development pertaining to the subject of Central Office / BOE determination of urgent need for academic ‘intervention,’ including but not limited to all written and electronic internal communications, memos, emails, text messages, files, presentations, meeting notes, etc. among and between all current and past BoE members, Town officials (elected and appointed) and employees, WPS Central Office Administrators, WPS educators, WPS administrators, WPS CILS, WPS educational contractors and consultants or sales agents or representatives etc. for the dates January 1, 2018 – January 28, 2022.” *See Ex. 9.*
- On March 5, 2022, the Respondents requested “all records and reports and data pertaining to WPS book and other written media check-out / borrowing for the FY 06-FY 22 school years, by building and in aggregate. This data need not include usage rate data for electronic versions or copies books and other media, but if comingled with physical media records and data, then please provide designated as appropriate. Please provide copies of all communications and files, both written and electronic, pertaining to WPS library space and media planning, usage, budgeting, sourcing, procurement, rotation, retirement, review, innovation, modification, etc. for the FY 06 – FY 22 school years.” *See Ex. 10.*
- On July 20, 2022, the Respondents requested “all records and communications and documents pertaining to the BOE’s lease-back of WPS school building space to TOW & Weston Senior organizations (and any and all other agencies or entities) for use as a Senior Center (and any and all other uses), including but not limited to all communications and presentation materials and negotiations (etc.) among and between all Central Office Staff and current and past BoE members generated on all BOE/WPS-issued and personal accounts, files, and devices among and between all TOW officials, Board and Committee members, and their agents, for the period 1-1-2013 through 7-19-22.” *See Ex. 11.*
- On July 25, 2022, the Respondents requested “all written and electronic records, documents, notes, files, etc. pertinent to your work, involvement, and

communications regarding the WPS State Partnership Plan and WPS staff health and dental insurance bidding, analysis, presentation, review, etc. from all your WPS-issued and personal electronic devices and accounts and files, including but not limited to all email and text communications among and between yourself and all Central Office and WPS staff, their agents, and contractors and representatives, as well as all Town of Weston officials and all Weston Board and Commission and Committee members, as well as all State of CT legislators, their staff, State employees and their contracts and agents, as well as all insurance brokers and carriers, for the date range December 1, 2019 and June 25, 2022.” See Ex. 12

See generally Ex. 1.

Making matters more difficult for the Petitioners, the Respondents often have submitted many FOIA Requests in a single day. For example:

- On September 6, 2019, the Respondents submitted 14 FOIA Requests. See Ex. 4.
- On September 11, 2019, the Respondents submitted 22 FOIA Requests. *Id.*
- On November 1, 2019, the Respondents submitted 14 FOIA Requests. See Ex. 5.
- On January 28, 2020, the Respondents submitted 7 FOIA Requests. See Ex. 13.
- On May 13, 2020, the Respondents submitted 7 FOIA Requests. See Ex. 14.
- On June 16, 2020, the Respondents submitted 5 FOIA Requests. See Ex. 15.
- On October 8, 2020, the Respondents submitted 4 FOIA Requests. See Ex. 16.

See generally Ex. 1. Notably, all of the FOIA Requests listed above, among others, were made at a time when the District was still working to fulfill other FOIA Requests that the Respondents had previously submitted. See, e.g., Ex. 17, Ex. 18.

Further, as Superintendent Lisa Barbiero has testified, and as demonstrated by the examples above, the Respondents’ FOIA Requests often are confusing because they are lengthy and cryptic, and use different verbiage to reference a previously-submitted request. See *Haythorn*, Docket #FIC 2021-0470 (July 27, 2022). The Executive Director of the Commission

(the “Executive Director”) has noted this lack of clarity as well. *See Haythorn v. Facility Optimization Comm., Town of Weston et al.*, Docket #FIC 2022-0051 ¶ E (“From the complaint filed, the [Respondents’] request is not at all clear.”). Moreover, on several occasions, the Respondents have hidden their FOIA Requests in a wall of text, requiring the Petitioners to find the proverbial needle in a haystack. *See, e.g., Ex. 1, Ex. 2, Ex. 18.*

In summary, the Commission should grant the relief requested herein based on, among other factors discussed below, (1) the unprecedented number of FOIA Requests, (2) the broad scope of such requests, (3) the confusing and lengthy nature of the emails surrounding such requests, and (4) the fact that the Respondents often have submitted many requests on the same day and often while many previously-submitted FOIA Requests were still outstanding.

**ii. The disrespectful, abusive, and hostile nature of the Respondents’ communications to the Petitioners supports a determination that the Respondents are vexatious requesters.**

The Commission granted the *Godbout* Petition based in part on the fact that “a number of the [r]espondent’s requests and conduct [were] often disrespectful, abusive and concerning.” *Godbout*, PRVR #1 ¶ 57. The Respondents’ requests and conduct here are similarly uncivil.

For years, the Respondents have communicated with the Petitioners in a highly uncivil and offensive manner. The following is a sampling of the countless emails the Respondents have sent the District through the years demonstrating the disrespectful tone and manner in which the Respondents routinely communicate with administrators and Board members:

- “This bullshit in between is a disaster for the students and community. Year 1, you could be forgiven. Year 3, not so much. Do better this year.” *See Ex. 19.*
- “[Former superintendent’s] run-out from the meeting to presumably smooth things over with his buddy . . . was extremely disconcerting to us as voters, taxpayers, parents. We could never have imagined a situation as cock-eyed as

where Weston now finds itself. [Former superintendent's] tenure in the Weston District has, to date, been nothing short of an unmitigated disaster for the community." See Ex. 20.

- “Unfortunately, the abject failure of prior BoE leadership and current Senior District Administration is so complete that you and [Board member] have been afforded no margin for error, no spare time for lengthy deliberations, and not an extra penny to devote to new third-party studies.” *Id.*
- “[W]e will call for the BoE to immediately negotiate a buy-out for 5 of the current 6 Senior District Administrator employment contracts . . . . They have failed as a team, and there is no choice but to replace them as a team in order to avoid complete municipal and District fiscal failure . . . . Once the BoE reaches the undeniable conclusion that Senior Administrators are directly responsible for the avoidable scale of overspending and waste, it becomes clear that future District \$ losses diminish significantly in the absence of the current Senior Administrators. Plotting a new course is easier for BoE leadership without the predictable resistance and objections of these culpable Administrators. No need to impair anyone’s future employability – those let go can resign on their own timetable over the next 8 months (pro rate buyouts accordingly), more than enough time for the BoE to complete exhaustive replacement searches as necessary.” *Id.*
- “Today was yet another disgraceful display by the most highly compensated public administrators in the nation, with the easiest jobs in their chosen profession.” See Ex. 21.
- “The BoE Chair should be ashamed for resorting to the same tired, disingenuous threatening and bullying of the Superintendent and his predecessors.” See Ex. 22.
- “You have knowingly wasted countless \$1,000s on Weston taxpayer \$s and 100s of hours of Jenn and my time? And collectively 1000s of hours of Town official time on related work such as the FOC, which is based on these obviously useless facility studies? . . . As we have already documented, this ‘analysis’ is complete nonsense . . . . Baord [sic] leadership can put an end to this embarrassing travesty and insult to every Weston parent and taxpayer at any minute you so choose. Why are you still doing the work of the Boards- we appreciate the perceived political advantage of letting someone else do your ‘dirty work,’ but this is beyond . . . .” See Ex. 23.
- “Is there no bottom to the lows aspired to by Weston’s BOE?” See Ex. 24.
- “[Board member identified by name], your and [other Board member identified by name’s] credibility is now unsalvageable.” See Ex. 25.
- “Hysterical, [Board member identified by name], please have some respect for Weston voters, parents and taxpayers.” See Ex. 26.

- “Worst leadership in any respect we have ever witnessed. Period. Sleep well.” *Id.*
- “Sadly tonight, the BoE demonstrated publicly and beyond a shadow of a doubt that former Superintendent . . . was not the ultimate problem. The biggest threat to the future of WPS education for every Weston student is the current 7-member Board of Education itself. Brutal. Good night.” *Id.*
- “Lead by example – start immediately, and then please resign.” *See Ex. 27.*
- “In addition to court order for independent classroom counts – where does competence end and negligence begin? FOC leadership is the gift that keeps giving. You were even too complacent (self-assured?) to even bother to create the insincere impression of objectivity... Unbelievable.” *See Ex. 28.*
- “[Board member identified by name], because you and your colleagues are (and have been) ‘just plain wrong’, resignation is the only path forward for you, [Board member identified by name], and [Board member identified by name]. It is the only hope for our District and community. [Superintendent] cannot possibly succeed in turning around District performance while burdened with such a spectacularly failed and incompetent BOE team.” *See Ex. 29.*
- “What a disgrace, what an offense to every student, and insult to the hard work of every WPS staff member.” *Id.*
- “The collective leadership ignorance and imperviousness to reason is ceaselessly shocking.” *See Ex. 30.*
- “Until the BoE leadership sets the bar higher for itself . . . it is simply unfair to expect a higher-bar for the Senior Admins. You reap what you sow. . . . But worse is your comfort blaming [Superintendent]. Have you zero shame and self-respect?” *See Ex. 31.*
- “Utter Failure by [nine individuals identified by name]. Educational, fiscal, and municipal disaster of unfathomable scale.” *See Ex. 32.*
- “Time for change Weston – time for the BOE Chair to resign immediately, rather than be permitted to delay his announced resignation another month so that he can lead the scheduled BOE August workshops over the coming weeks.” *See Ex. 33.*
- “Just posted to social media, along with [a] screenshot of our emailed public comment questions . . . . So as public comment, we emailed all Board members minutes ago to ask them why any accountable, transparent BoE would even consider ratifying as planned and pre-orchestrated this evening. We are now watching the live stream to see what they do... As always, completely dreadful leadership.” *See Ex. 34*

- “That Weston’s unanimously elected [Board Chair] would so brazenly spin such yarns in contradiction of the public record, in the presence of the BoE counsel no less, raises myriad concerning implications and questions. How can any BoE member rely upon his representations privately, or publicly, in light of these latest statements seemingly intended to misdirect his colleagues?” *See* Ex. 35.
- “[T]he BoE wasted 3 hours of their and the Central Office’s time, and \$1,000s in fees from Shipman, to plot and scheme new ways to avoid, evade, and discourage official accountability. Accountability only necessitated by obvious and documented inaccuracy and invalidity of public leadership statements, official assumptions, and Board / Central Office plans ranging from budgets to student enrollment. JUST IMAGINE HOW MUCH MIGHT HAVE BEEN ACCOMPLISHED EDUCATIONALLY ON BEHALF OF THE STUDENTS HAD THIS BOE INSTEAD invested this time and \$s on overdue and objective multiyear budgeting, analysis of post-Covid academic outcomes, research into administrative cost sharing, study of preliminary enrollment trends and projections, etc., etc., etc.” *Id.*

The examples above demonstrate that, like the respondent’s behavior in *Godbout*, the Respondents’ conduct often is disrespectful, abusive, and hostile. *See Godbout*, PRVR #1 ¶ 57; *see also* Ex. 30, Ex. 36, Ex. 37. In addition, the Respondents often taunt the Petitioners with the threat of FOIA complaints, highlighting the manner in which the Respondents use the FOIA as a sword rather than for its intended purpose. *See, e.g.*, Ex. 12, Ex. 38, Ex. 39, Ex. 40. The Respondents use profanity; call District administrators and Board members names; personally attack District administrators and Board members; demand that District administrators and Board members resign; and threaten District administrators and Board members, informing them that they “will continue to poke their heads in when you least expect it, as well as when you do” and warning them to be “[c]areful what [they] wish for – because [they] are likely to get it.” *See* Ex. 41; *see also* Ex. 19, Ex. 20, Ex. 25, Ex. 27, Ex. 29, Ex. 30. In addition, there have been many times when the Respondents have emailed the Petitioners repeatedly during remote Board meetings with running commentary and criticism. *See, e.g.*, Ex. 26, Ex. 42, Ex. 43. It has been

nearly impossible for Board members to escape the disruption and distraction of these emails which pop up – incessantly – on the very computer screens that the Board members are using to hold their remote meetings. The Respondents’ communications as described above occur so frequently that they can only be described as harassment. *See id.*

In summary, the Respondents’ unrelenting and grossly uncivil communications with District administrators and Board members supports a finding that the Respondents are vexatious requesters.

**iii. The Respondents’ pattern of conduct supports a determination that the Respondents are vexatious requesters.**

The Commission granted the *Godbout* Petition based in part on the fact that the respondent’s “requests and conduct [were] recurring, repetitive and unrelenting; and that the objective of such requests and conduct [was] often to annoy or hassle rather than to obtain public access”; “the cumulative nature of the [r]espondent’s requests and conduct . . . [had] a decidedly detrimental effect on the Petitioners,” had been “disruptive” and had “significantly hampered the Petitioners’ responsibilities and functions”; and “the [r]espondent’s requests and conduct [were] distressing and intended to harass the Petitioners.” *Godbout*, PRVR #1 ¶¶ 63-66. Similarly, here, the Respondents have engaged in a pattern of conduct since September 2019 that amounts to an abuse of their right to access information under the FOIA and has interfered with the operation of the District.

In *Godbout*, the Commission explained that the phrase, “pattern of conduct,” though not defined in the FOIA, “requires a showing of recurring incidents or repetitive behavior on the part of the requester.” *Godbout*, PRVR #1 at ¶ 51. The Commission explained that the phrase, “abuse

of the right to access information under the [FOIA] . . . requires the Commission to assess the cumulative nature of the requester’s requests and conduct, and their effect on the petitioning agency.” *Id.* at ¶ 52. Finally, the Commission explained that the phrase, “interference with the operation of the agency . . . requires the Commission to assess whether the requests and conduct exhibited by the requester significantly obstructs or hinders the petitioning agency’s abilities to carry out its responsibilities and functions.” *Id.* ¶ 53.

The similarities between the respondent’s “pattern of conduct” in *Godbout* and the Respondents’ conduct in this matter are striking. *See id.* ¶ 17. The respondent in *Godbout* made hundreds of FOIA requests to the petitioner town and board of education over a two-year period. Likewise, here, the Respondents have made 115 FOIA Requests to the Board alone between September 2019 and the Filing Date; this number does not include the additional hundreds of requests made separately to the Town of Weston. Like the respondent in *Godbout*, the Respondents’ FOIA Requests are voluminous in nature and “aim[ed] to frustrate . . . or to ‘pile on,’” and the Respondents’ communications with the District “are often disrespectful, abusive and concerning.” *See Godbout*, PRVR #1 at ¶ 55.

Further, like the respondent in *Godbout*, the Respondents are litigious and rarely are satisfied with the Petitioners’ responses to their FOIA Requests. *See Godbout*, PRVR #1 ¶ 62. As of the Filing Date, the Respondents have filed a total of nine complaints with the Commission against the Petitioners. Between the Town of Weston and the District, the Respondents “have filed 22 complaints with the Commission, all but one . . . since September 2019.”<sup>4</sup> In addition, as it did with the respondent in *Godbout*, the Commission has denied leave to schedule matters

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<sup>4</sup> *See* [Ex. 44](#), [Ex. 45](#), [Ex. 46](#).

commenced by the Respondents against the Town of Weston and the District.<sup>5</sup> *See Godbout*, PRVR #1 at n.1. Of those the Respondents have filed against the Petitioners that have proceeded to hearing and been decided by the Commission, the Petitioners have prevailed in every case regarding records requests and in one meeting-related case. In the one (meeting-related) case where the Petitioners were found to have violated the FOIA, the Petitioners had previously admitted their mistake and had publicly apologized for it before the Respondents filed the FOIA Complaint. *See Haythorn*, Docket #FIC 2021-0299 (Jan. 4, 2023). Despite this acknowledgment and apology, the Respondents refused to settle the matter and the case proceeded to hearing. In light of the Petitioners' public apology and voluntary participation in FOIA training prior to hearing, the Commission declined to issue a civil penalty. The Respondents' insistence that this matter proceed to hearing, which concluded with the Commission simply agreeing with what the Petitioners had previously conceded, resulted in a waste of scarce District and Commission time and resources.

The basis for many of the FOIA Complaints, such as *Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022) and *Haythorn*, Docket #FIC 2021-0470 (July 27, 2022), is the Respondents' belief that the Petitioners have failed to turn over all documents responsive to their voluminous requests. This is also the basis for many of the Respondents' repetitive FOIA Requests. *See, e.g., Ex. 1, Ex. 18, Ex. 47*. No matter how much time the District spends responding to the FOIA Requests, or how committed the District is to working collaboratively with the Respondents (*e.g.*, by asking the Respondents to communicate which outstanding requests they would like the District to prioritize,<sup>6</sup> and meeting with the Respondents in person on several occasions to

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<sup>5</sup> *See id.*

<sup>6</sup> *See Ex. 17.*

discuss the FOIA Requests and gain a better understanding of what information the Respondents are seeking), the Respondents often accuse the District of acting in “bad faith.” *See, e.g., Ex. 48, Ex. 49, Ex. 50, Ex. 55.*

As in *Godbout*, the Respondents’ FOIA Requests ultimately became so voluminous and overwhelming that the Petitioners created a tracking document to monitor the hours they spend working on such requests. *See Godbout*, PRVR #1 ¶ 18; *see also Ex. 51*. The tracking document shows that, between November 2020 and the Filing Date, the Petitioners have spent approximately 308 hours attending to the Respondents’ FOIA Requests, FOIA Complaints, and related matters. In reality, that number likely is significantly higher because it is difficult for District staff to track all of their time, and the Petitioners did not track the time spend on matters related to the Respondents’ FOIA requests before November 2020. *See id.* The existence of the tracking document itself speaks to the detrimental impact and disruption caused by the Respondents’ requests. Additionally, in previous FOIA Complaint hearings, the Petitioners have described responding to the FOIA Requests as “overwhelming.” *See Haythorn*, FIC #2020-0470 (July 27, 2022); *see also Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022). The Petitioners have testified that they have worked diligently to respond to the Respondents’ unclear, lengthy requests in the midst of the COVID-19 pandemic; while transitioning administrators and staff into new positions; and while responding to requests made by other members of the public, all while educating the children of Weston. *See Godbout*, PRVR #1 ¶¶ 64, 65; *see also Haythorn*, FIC #2020-0470 (July 27, 2022); *Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022).

In reaching its determination in *Godbout* that the respondent’s FOIA requests had a detrimental impact and caused disruption to the petitioners’ operations, the Commission noted

that “East Lyme is a relatively small municipality . . . and that its town government has limited staff.” *Godbout*, PRVR #1 ¶ 54. The Commission took administrative notice that East Lyme “had a population of 19,159 at the 2010 census.” *Id.* Likewise, here, Weston is a small municipality – nearly half the size of East Lyme – with a population of 10,278 as of the 2020 census.<sup>7</sup> *See id.* Given its small size, Weston, like East Lyme, has limited staff available to fulfill FOIA requests. *See id.* Specifically, Daniel DiVito, the District’s Director Digital Learning and Technology, is responsible for conducting the searches to locate potentially responsive records in the District’s internal database, and there are limited staff members at any given time who are available to review those records for responsiveness and make any necessary redactions, such as redactions of confidential student information protected by the Family Educational Rights and Privacy Act (FERPA). Indeed, at one time, the District had to retain and train additional staff simply to help respond to the FOIA Requests. *See Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022); *see also Haythorn*, FIC #2020-0470 (July 27, 2022).

The attacking, offensive manner in which the Respondents communicate with the District; the “reoccurring, repetitive, and unrelenting” 115 FOIA Requests the Respondents have made to the District since September 2019; the Respondents’ eagerness to file FOIA Complaints with the Commission and to drag those hearings on over multiple days; and the burden the Respondents have imposed on the District’s administrators, Board members, and staff members demonstrates that the conduct exhibited by the Respondents is distressing to the Petitioners, as was the conduct of the respondent in *Godbout*. *See Godbout*, PRVR #1 ¶ 66. As in *Godbout*, it is

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<sup>7</sup> *Weston town, Fairfield County, Connecticut*, DATA COMMONS: PLACE EXPLORER [https://datacommons.org/place/geoId/0900183430?utm\\_medium=explore&mprop=count&popt=Person&hl=en](https://datacommons.org/place/geoId/0900183430?utm_medium=explore&mprop=count&popt=Person&hl=en) (last visited Jan. 6, 2023).

evident that “the objective of [the Respondents’] requests and conduct is often to annoy or hassle” the Petitioners, and to intimidate or degrade them, “rather than to obtain public access.” *See Godbout*, PRVR #1 ¶ 63. In summary, the Respondents have engaged in a pattern of conduct that amounts to an abuse of the right to access information under the FOIA and has interfered with the operation of the District.

\* \* \*

Based on the evidence above, the Respondents are vexatious requesters and have demonstrated a vexatious history of requests. The Petitioners therefore respectfully request that the Commission order that the Petitioners need not respond to any FOIA requests submitted by the Respondents for a period of one year, and award any other relief the Commission deems appropriate in light of the circumstances.

**B. The Commission Should Continue to Deny Leave to Schedule Further Hearings Regarding the Respondents’ FOIA Complaints.**

To date, the Executive Director issued a Notice of Request to Summarily Deny Leave to Schedule a Hearing regarding three complaints<sup>8</sup> filed by the Respondents, two against the District and the other against the Facility Optimization Committee (the “Denial Requests”). The Commission has affirmed all three Denial Requests. *See Ex. 52, Ex. 53, Ex. 54*. The Petitioners ask that the Executive Director continue to issue such requests regarding any further complaints filed by the Respondents, and that the Commission continue to affirm any such requests.

Connecticut General Statutes Section 1-206(b)(2) provides, in relevant part, that

[i]f the executive director of the commission has reason to believe an appeal . . . (A) presents a claim beyond the commission’s jurisdiction; (B) would perpetrate an injustice; or (C) would constitute an abuse of the commission’s administrative

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<sup>8</sup> *See Ex. 44, Ex. 45, Ex. 46.*

process, the executive director shall not schedule the appeal for hearing without first seeking and obtaining leave of the commission. . . .The commission shall grant such leave unless it finds that the appeal: (i) Does not present a claim within the commission’s jurisdiction; (ii) would perpetrate an injustice; or (iii) would constitute an abuse of the commission’s administrative process.

Conn. Gen. Stat. § 1-206(b)(2). In determining whether a hearing should not be scheduled,

the commission shall consider the nature of any injustice or abuse of administrative process, including but not limited to: (A) The nature, content, language or subject matter of the request or the appeal, including, among other factors, whether the request or appeal is repetitious or cumulative; (B) the nature, content, language, or subject matter of prior or contemporaneous requests or appeals by the person making the request or taking the appeal; (C) the nature, content, language or subject matter of other verbal and written communications to any agency or any official of any agency from the person making the request or taking the appeal; (D) any history of nonappearance at commission proceedings or disruption of the commission’s administrative process, including, but not limited to, delaying commission proceedings; and (E) the refusal to participate in settlement conferences conducted by a commission ombudsman in accordance with the commission’s regulations.

Conn. Gen. Stat. § 1-206(b)(3).

The Executive Director issued the Denial Requests on the grounds that the scheduling of hearings in those matters “would constitute an abuse of the Commission’s administrative process” and would “perpetrate an injustice.” *See Ex. 44, Ex. 45, Ex. 46.* The Executive Director cited the following reasons for the Denial Requests:

- “The Commission’s resources are diminished due to loss of agency personnel. Additionally, the worldwide pandemic resulted in unavoidable delays in adjudicating cases, contributing to a backlog of cases which the Commission has been working determinedly to resolve.” *Id.*
- “The [Respondents] have filed 22 complaints with the Commission, all but one against the Town . . . and/or [the District] since September 2019. Thus far, the Commission has held thirteen hearings, comprising numerous hours, in the process of adjudicating certain of the [Respondents’] complaints, including one hearing at which the [Respondents] failed to appear. In all of these matters, Weston has appeared with counsel and witnesses, fully participating in the proceedings.” *Id.*

- “The [Respondents’] large number of complaints has overburdened the Commission. Such complaints often concern requests for voluminous records from multiple officials in the town of Weston. See, e.g., Docket # FIC 2021-0470 (July 27, 2022) (dismissing complaint involving request for copies of all records, text messages, emails, documents, notes, and communications regarding a 2020 investigation and analysis by the [District] and Town officials, and finding that the [Respondents] made approximately 108 separate records requests to the [District] between September 2019 and May 2022, a less than three-year period, requiring the [Petitioners] to hire additional staff to deal with the volume).” *Id.*
- “In the matters which the Commission has fully adjudicated involving records requests, the Commission has dismissed all but one of such complaints in their entirety, concluding that the various Weston respondents had not claimed exemptions to disclosure, but rather provided massive amounts of records as promptly [as] feasible, in addition to carrying out their many other duties.” *Id.*
- “Hundreds of individuals, other than the complainants, await their first opportunity to appear before the Commission to pursue their claims.” *Id.*

In addition to the conduct cited in the Denial Requests, the Respondents have exhibited other behavior that constitutes an abuse of process. Specifically, the Respondents have a history of not meaningfully participating in the ombudsman process to resolve FOIA Complaints prior to hearing, as well as refusing to engage in helpful dialogue with the Petitioners about their FOIA Requests before filing FOIA Complaints in the first instance. See Ex. 44 (“Rather than engaging in helpful communication with the [Petitioners] regarding the scope of their request, the [Respondents] . . . filed the complaint in this matter.”). Further, when the FOIA Complaints have proceeded to hearing, the Respondents’ litigious nature has tended to prolong the hearings for days. For example, the hearing concerning *Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022) spanned four sessions, and the hearing concerning *Haythorn*, Docket #FIC 2021-0470 (July 27, 2022) spanned two sessions.

The Respondents also are unwilling to accept the result of matters that were fully and fairly litigated before the Commission. Despite having had four separate hearing sessions in

which to present their case, the Respondents moved for reconsideration of the decision in *Haythorn*, Docket #FIC 2020-0634 (Oct. 12, 2022). *See Ex. 55*. The Respondents claimed there was “new evidence” that responsive records not produced exist in “the basement” of the District’s Central Office. *Id.* The Petitioners objected to this motion on the grounds that there was “no basis to reopen th[e] matter,” and affirming that the Petitioners “have at all times acted in good faith.” *Id.* The hearing officer ultimately denied this motion on the basis that it was untimely. *Id.*

Finally, the Respondent’s abuse of the Commission’s administrative process has affected the Commission and its hearing officers directly. On several occasions, the Respondents have castigated the Commission and its hearing officers and accused them and of treating the Respondents unfairly. For example, the Respondents have made the following comments about the Commission and/or its hearing officers:

- “[I]f [the hearing officer] was required to complete the hearing in this complaint today May 27th, she therefore could not have had any sincere intent to call Pesco or Cross to appear before the FIC in this matter. Her de factor [sic] ruling, while not formally issued, therefore would have clearly already been made on our request . . . . Therefore, nothing we could present for evidence nor argument today, and no amount of future consideration by the hearing officer, would have changed that pre-determination by [the hearing officer] or the FIC.” *See Ex. 57*.
- “FIC leadership is reading every word and now scrambling to cover their tracks . . . . [I]t is not a meaningless count of taxpayer complaints which constitutes an ‘undue burden’ upon the FIC, but the now proven and rampant lawless non compliance [sic] of countless public and District officials and their enablers . . . . Shame on FIC leadership, CT residents deserve better. Disgraceful.” *See Ex. 56*.
- “We did not expect the depth of problems from the FIC as well.” *See Ex. 55*.

In summary, for the reasons cited in the Denial Requests, together with the Respondents’ long history of vexatious conduct, the Commission should continue to summarily deny leave to

schedule any further FOIA complaints brought by the Respondents because scheduling such hearings “would constitute an abuse of the Commission’s administrative process” and would “perpetrate an injustice.” *See* Conn. Gen. Stat. § 1-206(b)(2).

### **III. CONCLUSION**

For years, the Respondents have bombarded the District with hundreds of FOIA Requests and numerous FOIA Complaints. They have made no effort to meaningfully work with the District toward responding to the FOIA Requests or resolving the FOIA Complaints. They have been uncivil and often hostile. They have verbally attacked Board members and District administrators by name and have accused the Commission and its hearing officers of wrongdoing when they have not gotten their way.

Through this long history of vexatious conduct, the District has at all times acted in good faith and has dutifully complied with the FOIA. However, this pattern of conduct cannot continue to derail District operations and abuse the Commission’s administrative process. For these reasons, and based on the extensive record set forth in this Petition, the District respectfully requests that the Commission grant this Petition, order that the Petitioners need not respond to any FOIA requests submitted by the Respondents for a period of one year, continue to deny leave to schedule further hearings regarding the Respondents’ appeals to the Commission, and award any other relief the Commission deems appropriate in light of the circumstances.

Respectfully submitted,

**WESTON BOARD OF EDUCATION &  
WESTON PUBLIC SCHOOLS**

By:           /s/ Jessica Richman Smith            
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**FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT**

WESTON BOARD OF EDUCATION & WESTON PUBLIC SCHOOLS	:	
Petitioners,	:	
	:	
v.	:	
	:	
GREGG HAYTHORN & JENNIFER HAYTHORN	:	
	:	
Respondents.	:	February , 2023

**PETITIONERS' SWORN SIGNATURE**

The Weston Board of Education and the Weston Public Schools submit this Petition for Relief from Vexatious Requesters and Motion that the Commission Deny Leave to Schedule Further Hearings. While it is impossible for one person to verify from personal knowledge all of the facts set forth in the Petition for Relief from Vexatious Requesters and Motion that the Commission Deny Leave to Schedule Further Hearings, having reviewed the Petition for Relief from Vexatious Requesters and Motion that the Commission Deny Leave to Schedule Further Hearings, I do hereby certify under penalty of perjury that the foregoing is true and correct. I provide this sworn signature pursuant to Conn. Gen. Stat. §§ 1-206(b)(5) and 53a-157b.

\_\_\_\_\_  
Steven Ezzes, Board Chair

State of Connecticut

County of FAIRFIELD

) )  
          ) ss. WESTON  
          )

On this the 24<sup>th</sup> day of February, 2023, before me, the undersigned officer, personally appeared Steven Ezzes, who acknowledged himself to be the Chairperson of the Weston Board of Education, and that he as such Chairperson, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Weston Board of Education and Weston Public Schools by himself as Chairperson.

In witness whereof I hereunto set my hand.

Signature of Notary Public:

*Donna M Anastasia*

**CERTIFICATION OF SERVICE**

This is to certify that on the 27th day of February 2023, a copy of the foregoing Petition for Relief from Vexatious Requesters and Motion that the Commission Deny Leave to Schedule Further Hearings was sent via U.S. mail, postage prepaid, and electronic mail, to:

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By  /s/ Jessica Richman Smith  
Jessica Richman Smith