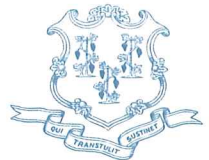




FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Conner Drigotas and Connecticut Inside
Investigator

Complainant(s)
against

Notice of Meeting

Docket #FIC 2025-0037

Chairman, State of Connecticut, Board of Regents,
Connecticut State Colleges and Universities; and State of
Connecticut, Board of Regents, Connecticut State
Colleges and Universities

Respondent(s)

December 4, 2025

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

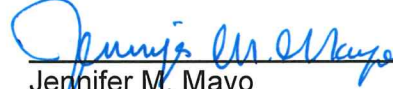
This will notify you that the Commission will consider this matter for disposition at its special meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **1:00 p.m. on Wednesday, December 17, 2025.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE December 15, 2025.** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE December 15, 2025.** PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE December 15, 2025** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission


Jennifer M. Mayo
Acting Clerk of the Commission

Notice to: Conner Drigotas and Connecticut Inside Investigator
Attorney Christopher E. Engler

FIC# 2025-0037/ITRA/CZH/RB/JMM/2025-12-4

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Conner Drigotas and CT Inside Investigator,

Complainants

against

Docket #FIC 2025-0037

Chairman, State of Connecticut, Board of
Regents, Connecticut State Colleges and
Universities; and State of Connecticut,
Board of Regents, Connecticut State
Colleges and Universities,

Respondents

December 4, 2025

The above-captioned matter was heard as a contested case on July 30, 2025 and September 23, 2025, at which times the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After the contested case hearings in this matter, by order of the hearing officer, the respondents submitted 15 after-filed exhibits¹, which have been admitted into evidence, without objection, and marked as follows: Respondents' Exhibit 2 (after-filed): affidavit of Amber Marino, sworn on October 9, 2025; Respondents' Exhibit 3 (after-filed): affidavit of Brandais Orzolek, sworn on October 8, 2025; Respondents' Exhibit 4 (after-filed): affidavit of Denise Hudgen, sworn on October 8, 2025; Respondents' Exhibit 5 (after-filed): affidavit of Erin Ransford, sworn on October 13, 2025; Respondents' Exhibit 6 (after-filed): affidavit of Jeanine Fair, sworn on October 20, 2025; Respondents' Exhibit 7 (after-filed): affidavit of Jennifer Person, sworn on October 22, 2025; Respondents' Exhibit 8 (after-filed): affidavit of Jes Kraus, sworn on October 8, 2025; Respondents' Exhibit 9 (after-filed): affidavit of John Bazin, sworn on October 9, 2025; Respondents' Exhibit 10 (after-filed): affidavit of Linda Pestretto-Demers, sworn on October 20, 2025; Respondents' Exhibit 11 (after-filed): affidavit of Marlene Cordero, sworn on October 7, 2025; Respondents' Exhibit 12 (after-filed): affidavit of Michael Moriarty, sworn on October 22, 2025; Respondents' Exhibit 13 (after-filed): affidavit of Nicholas D'Agostino, sworn on October 22, 2025; Respondents' Exhibit 14 (after-filed): affidavit of Peggy Boyle, sworn on October 8, 2025; Respondents' Exhibit 15 (after-filed): affidavit of Thomasina Calise, sworn on October 23, 2025; Respondents' Exhibit 16 (after-filed): affidavit of Wendy Bovia, sworn on October 20, 2025.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

¹ See paragraph 39, below.

1. The respondents are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, by separate emails dated September 12, 2023, the complainants made requests for copies of certain records to each of the six institutions that make up the respondent Connecticut State Colleges and Universities (“CSCU”) system: Central Connecticut State University (“CCSU”), Eastern Connecticut State University (“ECSU”), Southern Connecticut State University (“SCSU”), Western Connecticut State University (“WCSU”), Charter Oak State College (“COSC”), and Connecticut State Community College (“CSCC”). Specifically, the complainants requested copies of the following:

“all records pursuant to any investigation into sexual misconduct of any faculty or staff member from January 1, 2018 to present. I am also requesting all disciplinary files for any individuals who were the subject of those investigations from any date, as well as any employment contracts or agreements those individuals may have signed.”

3. It is found that, by letter dated September 13, 2023, the Human Resources Administrator for WCSU, Peggy Boyle, acknowledged the complainants’ request on behalf of such institution. It is found that no other institution of the respondents responded to the complainants’ initial records requests.

4. It is found that, by email dated May 23, 2024, the complainants requested an update from WCSU on the status of their records requests.

5. It is found that, by email dated May 23, 2024, Ms. Boyle informed the complainants that the respondent Board of Regents (“BOR”) had decided to consolidate the complainants’ individual records requests into a single request (“consolidated records request”), take the lead on collecting and disclosing responsive records, and communicate with the complainants directly regarding such consolidated records request. It is also found that Ms. Boyle informed the complainants, by the same email, that all institutions had been instructed to forward responsive records to the BOR’s central office and that she had done so on November 6, 2023.

6. It is found that, by email dated May 27, 2024, Paralegal Specialist for CSCU, Jonathan Rosario, responded to the complainants on behalf of the CSCU system and informed the complainants he was looking into their consolidated records request.

7. It is found that, by email dated June 10, 2024, the complainants replied to Mr. Rosario’s email, described in paragraph 6, above, and requested more information regarding the respondents’ delay in producing responsive records. It is also found that the complainants requested another update on the status of their consolidated records request.

8. It is found that, by email dated June 24, 2024, the Director of Communications for CSCU, Samantha Norton, apologized for the delay in producing responsive records, which she

attributed to staffing issues, and informed the complainants that records would be provided on a rolling basis, as they became available.

9. It is found that, by email dated August 2, 2024, the complainants replied to Ms. Norton's email, described in paragraph 8, above, and again requested an update on their consolidated records request.

10. It is found that, by email dated August 5, 2024, Ms. Norton informed the complainants that the respondents were continuing to receive, review, and redact responsive records from the six institutions that comprise the CSCU system and that she anticipated having "some records ready within the next few weeks."

11. It is found that, having not received any responsive records, by email dated September 20, 2024, the complainants refreshed their consolidated records request to CSCU.

12. It is found that, by five separate emails dated September 26, 2024, Vice Chancellor for External Affairs for CSCU, Adam Joseph, provided the complainants with eighteen responsive investigative documents with redactions.

13. It is found that, by email dated September 26, 2024, Mr. Drigotas asked whether the respondents' five disclosures represented "100% of the responsive documents" or whether the complainants should "be expecting another batch" of responsive records. It is also found that, by email dated the same day, Mr. Joseph responded: "[t]hese are the documents responsive to your request. I don't anticipate sending any additional batches."

14. It is found that, by emails dated September 27, 2024 through October 18, 2024, Mr. Drigotas and Mr. Joseph communicated regarding various issues that Mr. Drigotas had with the respondents' production of records described in paragraph 12, above, including Mr. Drigotas identifying types of records missing from such production.

15. It is found that, by email dated December 20, 2024, Ms. Norton provided the complainants with another batch of responsive records.

16. It is found that, by email dated January 7, 2025, Mr. Drigotas informed the respondents that he believed there were still missing records responsive to his request and identified specific records related to eleven specific individuals.

17. By letter of complaint, received and filed January 15, 2025, the complainants appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records, described in paragraph 2, above.

18. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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

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

20. Section 1-212(a), G.S., provides, in relevant part: “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

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

22. It is found that, by email dated July 17, 2025, the respondents provided the complainants with additional responsive records, with redactions, and informed Mr. Drigotas that he had now been provided with all records responsive to his request described in paragraph 2, above. It is also found that, by email dated July 18, 2025, the respondents provided another batch of responsive records with redactions and indicated that such records had inadvertently been omitted from the July 17, 2025 email.

23. At the July 30, 2025 contested case hearing on this matter, the complainants alleged that the respondents had not provided all responsive records and that the respondents had failed to provide responsive records promptly. The complainants also challenged the redactions made to responsive records and requested both that the respondents receive FOI education training and that the Commission impose a civil penalty against the respondents .

Promptness

24. With regard to the complainants’ allegation that the respondents failed to disclose records promptly, this Commission takes guidance from 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).

25. In Advisory Opinion #51, 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. As the court recognized in Commissioner of Department of Emergency Services and Public Protection v. Freedom of Information

Commission, Superior Court, judicial district of New Britain, Docket No. HHB-CV-18-6047741 (July 20, 2020) *6, a public agency should consider its obligations under the FOI Act as a “primary duty” of that agency, “on par with the [agency’s] other significant duties, or said another way, that the agency’s FOIA duty is not a second class duty.”

26. 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.

27. With respect to the factors listed above, it is found that the volume of records requested consist of approximately eighteen documents totaling over 500 pages. It also found that, because the respondents consolidated the complainants’ initial records requests, they were required to coordinate efforts between eighteen staff members at six different institutions and seventeen campuses within the CSCU system, in order to search for responsive records and review such records for exemptions, prior to providing responsive records to the complainants. It is found that, in May of 2024², Mr. Rosario became the individual responsible for coordinating such efforts on behalf of the respondents and, along with his supervisor, redacting information claimed to be exempt from the responsive records before providing such records to the complainants.

28. The respondents testified, and it is found, that one of the eighteen staff members described in paragraph 27, above, has a long-standing and ongoing health issue that kept him out of the office. It is also found, however, that the respondents did not provide evidence regarding the time it took any of the eighteen individuals to search for responsive records or the importance to the public of such individuals completing their other agency business without the loss of the time involved in complying with the consolidated records request. It is further found that the respondents did not provide evidence regarding the time it took Mr. Rosario, and his supervisor, to redact information from the responsive records.

29. It is found that Mr. Drigotas is a news reporter with Connecticut Inside Investigators (“CII”), who made the consolidated records request in his capacity as a reporter for CII. It is therefore found that the respondents knew or should have known there was a heightened level of importance of such records to the complainants. It is also found, however, that Mr. Drigotas allowed over eight months to elapse between receiving WCSU’s initial acknowledgement on September 13, 2023, as described in paragraph 3, above, and requesting a status update from WCSU on May 23, 2024, as described in paragraph 4, above. It is further found, however, that subsequent to May 23, 2024, the complainants regularly followed up with the respondents on the status of outstanding responsive records.

30. At the hearings in this matter, the respondents testified as to various reasons for their initial delay in producing responsive records to the complainants. The respondents testified, and

² See paragraphs 30 and 36, below.

it is found, that, at the time of the complainants' initial records requests, the respondents' Interim General Counsel, Angelo Simoni, was the individual responsible for responding to FOI requests and would have been responsible for the consolidated records request at issue here. The respondents also testified, and it is found, that Attorney Simoni should have entered the consolidated records request in the respondents' GovQA system for tracking FOI requests, but there is no evidence that the consolidated records request was ever entered into GovQA or that Attorney Simoni performed any other work on such request, other than informing the individual institutions that the BOR's central office would be consolidating the initial records requests. The respondents further testified, and it is found, that Attorney Simoni left the respondents' employment in January or February of 2024, and the respondents did not realize, until May of 2024, that the consolidated records request had not been fulfilled by Attorney Simoni.

31. It is found that it took the respondents almost fourteen months (more than one year) from May 23, 2024, when the complainants requested an update on their initial records requests, to July 18, 2025, when the respondents provided the final batch of records to the complainants. It is also found that it took over 22 months (nearly two years) from the complainants' initial records requests to July 18, 2025, when the respondents provided the final batch of records to the complainants.

32. It is concluded, based upon all of the foregoing, that the respondents violated the promptness requirements in §§1-210(a) and 1-212(a), G.S.

Provision of Records

33. With regard to the complainants' allegation that the respondents have not provided all responsive records, the complainants argued that they were assured on three separate occasions that all responsive records had been provided, only to discover that there were, in fact, additional undisclosed records on at least two such occasions.³

34. With respect to the respondents assuring the complainants that all records had been provided on September 26, 2024, as described in paragraph 13, above, it is found that Mr. Joseph testified that he had intended to convey that no additional batches of records were ready to be sent that day. Based upon the credible testimony of the respondents' witnesses throughout the hearings in this matter, the Commission declines, in the present instance, to make an adverse inference against Mr. Joseph's testimony concerning the September 26, 2024 email.

35. With respect to the respondents assuring the complainants that all records had been provided on July 17, 2025, as described in paragraph 22, above, Mr. Rosario testified, and it is found, that at the time the respondents emailed responsive records to the complainants on July 17, 2025, Mr. Rosario believed that they had included all responsive records. Mr. Rosario also testified, however, and it is found, that the BOR's central office subsequently received additional records from one of their six institutions, on July 18, 2025, which the respondents then emailed that same day, unprompted, to the complainants. The respondents also testified that, through email correspondence and the subsequent disclosures, the respondents had addressed every

³ See paragraphs 13 and 22, above.

record specifically identified by Mr. Drigotas in his emails described in paragraphs 14 and 16, above.

36. Mr. Rosario testified, and it is found, that when the respondents realized the complainants' consolidated records request had not been fulfilled in May of 2024, Mr. Rosario worked with the points of contact at the individual institutions to obtain responsive records and fulfill such request. Mr. Rosario also testified, and it is found, that the respondents interpreted the complainants' request for "all records pursuant to any investigation" (emphasis added) to mean records created as a result of the outcome of any such investigation(s) (i.e. the investigation reports), and not to mean other records, such as those preceding any such investigation reports or any records created in furtherance of such investigations.

37. It is found that the term, "pursuant to", is defined by the Merriam-Webster Dictionary as: "in carrying out: in conformity with: according to". (Emphasis added.)⁴ It is found that the term is similarly defined by Black's Law Dictionary as: "1. In compliance with; in accordance with; under ... 2. As authorized by; under ... 3. In carrying out..." (Emphasis added.)⁵ It is therefore found that the complainants' requests, described in paragraph 2, above, were for all records created "in carrying out", or in furtherance of, any investigation into sexual misconduct and not only those records created as a result of the outcome of any such investigations. It is also found that the complainants' emails, described in paragraphs 14 and 16, above, make clear that the complainants were requesting more than just investigation reports and disciplinary records.

38. Consequently, it is found, based upon the facts and circumstances of this case, that the respondents' interpretation of the complainants' consolidated records request was unreasonably narrow.

39. On October 23, 2025, by order of the hearing officer, the respondents submitted to the Commission fifteen affidavits related to the respondents' search for responsive records, which were admitted into evidence as after-filed exhibits. It is found that fourteen such affidavits were sworn by individuals personally involved in searching for responsive records across the six individual institutions. It also found that Respondents' Exhibit 7 is a sworn affidavit of Jennfer Person, the Assistant Vice Chancellor of Human Resources and Labor Relations for CSCU, in which she credibly attests as to why the three individuals responsible for searching three specific CSCC campuses (e.g. the Quinebaug Valley, Manchester and Housatonic campuses) were unavailable to provide sworn affidavits to the Commission, as ordered by the hearing officer. It is further found that Respondents' Exhibit 13 is a sworn affidavit of Nicholas D'Agostino, Director of Equity and Civil Rights for CSCC, in which he attests that he oversees all investigations into allegations of sexual harassment, sexual misconduct, and related issues, and the maintenance of all records related to such issues within CSCC, and that his department searched for all responsive records within CSCC, including the three specific campuses with individuals who were unavailable to provide sworn affidavits.

⁴ Pursuant to, Merriam-Webster, <https://www.merriam-webster.com/dictionary/pursuant%20to> (last visited December 3, 2025).

⁵ Black's Law Dictionary (4th ed. Supp. 2011).

40. It is found, however, that, due to the findings in paragraphs 36 through 38, above, the searches conducted by the respondents, as described in paragraph 39, above, were unreasonably narrow.

41. It is therefore found, based upon all of the foregoing, that the respondents failed to conduct a diligent and thorough search for “all records pursuant to any investigation into sexual misconduct”, as described in paragraphs 2 and 36, above.

42. Accordingly, it is concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by failing to prove that they provided all responsive records to the complainants.

In Camera Inspection

43. On September 23, 2025, by order of the hearing officer, the respondents submitted to the Commission a copy of responsive records for in camera inspection, along with an in camera index. The parties have stipulated that the redactions in these responsive records are the only such redactions still at issue between the parties. Such records shall be identified hereinafter as IC-2025-0037-1 through IC-2025-0037-75.⁶

44. On the in camera index, the respondents contended that the portions of the in camera records, still at issue between the parties, are exempt from disclosure under §§1-210(b)(11) and 1-210(b)(17), G.S.

45. With regard to the respondents’ claim that certain portions of the in camera records, as indicated on the in camera index, are exempt from disclosure pursuant to §1-210(b)(11), G.S., such provision provides, in relevant part, that disclosure is not required of:

[n]ames or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age

46. On the in camera index, the respondents described the information claimed to be exempt from disclosure as the name of student(s) and the name of the building where a student lived. It is found that the name of a specific building where a student lived on a specific campus of the respondents constitutes an “address” within the meaning of §1-210(b)(11), G.S.

47. After a careful in camera inspection, it is found that the redacted portions of the in camera records described in paragraphs 45 and 46, above, consist of the names and addresses of students, and therefore, are permissively exempt from disclosure pursuant to §1-210(b)(11), G.S.

⁶ The Commission notes that IC-2025-0037-61 through IC-2025-0037-75 consist of a nonresponsive “Redaction Log” explaining the redacted information that is contained in the in camera records but is no longer at issue in this matter.

48. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by withholding such redacted information.

49. With regard to the respondents' claim that certain portions of the in camera records, as indicated on the in camera index, are exempt from disclosure pursuant to §1-210(b)(17), G.S., it is found that, on the in camera index, the respondents described such information as: "[n]ame of student complainant's sports team".⁷

50. Section 1-210(b)(17), G.S., provides that disclosure is not required of "[e]ducation records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g."

51. "[E]ducation records" is defined at 20 U.S.C. §1232g(a)(4)(A), as those records, files, documents, and other materials which (a) contain information directly related to a student and (b) are maintained by an educational agency or institution or by a person acting for such agency or institution. Therefore, as a threshold matter, the records must be found to be "directly related to a student."

52. The respondents cited no authority interpreting the phrase "directly related to a student," as referenced in 20 U.S.C. §1232g(a)(4)(A), in the context of disclosure of investigations into sexual misconduct of faculty or staff.

53. Courts in other jurisdictions have examined the phrase "directly related to a student," and concluded that records of complaints and investigations of misconduct by teachers, administrators or staff, in cases where students are the alleged victims and witnesses and therefore are identified in the records, are not education records protected by FERPA, because they do not contain information "directly related to a student." Rather, such disciplinary records are "directly related" to the subject of the complaint, and only tangentially related to the student. See e.g., Dahmer v. W. Kentucky Univ., 2019 WL 1781770 (W.D. Ky. 2019) (student complaints of sexual or gender-based discrimination and any documentation relating to those complaints are not "education records" protected by FERPA because they are records of fact and discipline against individuals associated with the institution); Cummerlander v. Patriot Preparatory Academy, 2013 WL 12178140 (S.D. Ohio 2013) (student witness statements are not education records because they do not directly relate to student witnesses but rather to the person who is the subject of the complaint); Briggs v. Board of Trustees Columbus State Community College, 2009 WL 2047899 (S.D. Ohio 2009) (records of student complaints about a teacher are "directly related" to the teacher and not to the students who complained); Young v. Pleasant Valley School District, 2008 WL 11336157 (M.D. Pa. 2008) (emails containing complaints about a teacher are not "directly related to a student," but rather are directly related to the teacher and only tangentially related to the student); Wallace v. Cranbrook Educational Community, 2006 WL 2796135 (E.D. Mich. 2006) (student statements alleging misconduct by a teacher are

⁷ The Commission notes that such information may fall within the definition of "personally identifying information" that is exempt from disclosure, pursuant to the Family Education and Privacy Act ("FERPA"), when such personally identifying information is contained within "education records." However, due to the findings in paragraph 56, below, the Commission need not further address whether such information falls within the definition of "personally identifying information" herein.

not "education records" because they are not "directly related to a student"); Baker v. Mitchell-Waters, 160 Ohio App.3d 250 (2005) (records of allegations of abuse of students by teachers do not directly relate to students); Ellis v. Cleveland Municipal School District, 309 F.Supp.2d 1019 (N.D. Ohio 2004) (records of allegations of teacher misconduct directly relate to the activities and behaviors of the teachers and do not directly relate to the students involved). But see Rhea v. District Board of Trustees of Santa Fe College, 109 So.3d 852 (Fla. Dist. Ct. App. 2013) (email written by student complaining about inappropriate classroom behavior of teacher is an "education record" protected by FERPA because the record is "directly related" to the student, even though it may also be "directly related" to the teacher).

54. In prior Commission decisions, the Commission employed a broader construction of the term "education records," largely relying upon the phrase "Personally Identifiable Information" as set forth in the regulations at 34 CFR §99.3, to identify what information is protected under FERPA. Utilizing that analysis, if a record "personally identified" a student, the Commission generally concluded that the record was exempt under FERPA and that the agency was prohibited from disclosing it. See Jeffrey Roets and the Wethersfield Federation of Teachers v. Superintendent of Schools, Wethersfield Public Schools, et al., Docket #FIC 2010-069 (portions of report of investigation into allegations of misconduct by school officials that personally identify a student are protected by FERPA); Jay Hardison v. Superintendent of Schools, Darien Public Schools, et al., Docket #FIC 2016-0853 (written witness statements made in connection with an investigation into an incident involving school football coach and a student, wherein student is personally identified in the statements, are records that are "directly related to a student" and therefore are "education records" protected by FERPA); Jay Hardison v. Superintendent of Schools, Darien Public Schools, et al., Docket #FIC 2017-0036 (video depicting incident in which school football coach struck a student, where video was part of misconduct investigation, constituted an "education record" of the student that was protected under FERPA, as it targeted an already identified student and contained information that personally identified that student and other students); but see, e.g., Linda Lambeck and the Connecticut Post v. Chairman, Board of Education, Bridgeport Public Schools, et al., Docket #FIC 2013-677 (video depicting school principal dragging a student, wherein student is not personally identifiable, is not "directly related to a student" and therefore is not an "education record" protected under FERPA).

55. More recently, however, looking to burgeoning and relevant law in other jurisdictions, this Commission employed the narrower analysis utilized in those decisions cited in paragraph 53, above, and has expressly rejected the broader analysis described in paragraph 54, above. See Joe Wojtas and The Day v. Superintendent of Schools, Stonington Public Schools, et al., Docket #FIC 2019-0493 (written correspondence from a principal to the superintendent, entitled "Investigation of Student Allegation of Inappropriate Contact by a Teacher", are not "directly related to the student" and therefore are not "education records" protected by FERPA); Christopher Peak and New Haven Independent v. Principal, Amistad Academy, et al., Docket #FIC 2019-0369 (teacher/employee disciplinary records regarding allegations of misconduct relate directly to such teacher/employee discipline and therefore are not "directly related to a student" and not "education records" protected by FERPA); Jay Hardison v. Superintendent of Schools, Darien Public Schools, et al., Docket #FIC 2017-0615 (parent emails that relate directly to complaints about school procedures, are not "directly related

to a student" and therefore are not "education records" protected by FERPA). Upon careful consideration, and a review of the current relevant law on the topic, it is found that the records of investigations into sexual misconduct of faculty or staff in this case, identified in paragraph 49, above, are not "education records" because they relate directly to the faculty or staff being investigated and are not "directly related to a student."

56. It is therefore found that this Commission, based upon relevant federal court precedent, has already ruled that records of a similar nature to the in camera records in this matter are not "education records" pursuant to FERPA and that FERPA does not apply to such records.

57. Consequently, it is concluded that the records described in paragraph 49, above, are not exempt from disclosure pursuant to §1-210(b)(17), G.S.

58. Accordingly, it is further concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by withholding the information described in paragraph 49, above.

Civil Penalty

59. The respondents testified, and it is found, that due to the mishandling of the complainants' consolidated records request, they had made several internal processing improvements for responding to public records requests, particularly with respect to consolidated records requests, and were revising their FOI Act handbook.

60. Based upon all of the foregoing, the Commission, in its discretion, declines to consider the imposition of a civil penalty in this case.

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

1. Forthwith, the respondents shall undertake a diligent and thorough search for "all records" responsive to the complainants' consolidated records request, as described in paragraphs 2 and 37 of the findings, above, from January 1, 2018 to September 12, 2023. Within sixty (60) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainants with unredacted copies of any such previously undisclosed records, free of charge.

2. In complying with paragraph 1 of the order, above, the respondents may redact the names and addresses of students, pursuant to §1-210(b)(11), G.S., and may withhold such records, or portions thereof, that are subject to a mandatory exemption.

3. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainants with copies of the in camera records described in paragraph 49 of the findings, above, free of charge, and with the information described in paragraph 49, above, unredacted.

4. If the respondents fail to comply with any order set forth in paragraphs 1 through 3, above, the complainants may file an appeal with the Commission, and such appeal may be afforded expedited treatment.

5. Henceforth, the respondents shall strictly comply with the provisions of §§1-210(a) and 1-212(a), G.S.


C. Zack Hyde
as Hearing Officer

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