

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOSTON PARENT COALITION FOR
ACADEMIC EXCELLENCE CORP.,

Plaintiff,

V.

) Civil Action No. 1:21-cv-10330-WGY

SCHOOL COMMITTEE OF THE CITY OF
BOSTON, ALEXANDRA OLIVER-DAVILA,
MICHAEL O'NEIL, HARDIN COLEMAN,
LORNA RIVERA, JERI ROBINSON, QUOC
TRAN, ERNANI DeARAUJO, and BRENDA
CASSELLIUS,

Defendants,

THE BOSTON BRANCH OF THE NAACP,
THE GREATER BOSTON LATINO
NETWORK, ASIAN PACIFIC ISLANDER
CIVIC ACTION NETWORK, ASIAN
AMERICAN RESOURCE WORKSHOP,
MAIRENY PIMENTAL, and H.D.,

Defendants-Intervenors.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S
MOTION PURSUANT TO FEDERAL RULE 60(b)**

Defendants School Committee of the City of Boston, School Committee members Alexandra Oliver-Dávila, Michael O’Neil, Hardin Coleman, Lorna Rivera, Jeri Robinson, Quoc Tran, and Ernani DeAraujo and Superintendent of Boston Public Schools Brenda Cassellius (collectively “Boston Public Schools” or “BPS”), hereby oppose the Fed. R. Civ. P. 60(b) motion (“Motion”) of Plaintiff Boston Parent Coalition For Academic Excellence Corp. (“Coalition”).

I. PRELIMINARY STATEMENT.

On June 22, 2021, the Coalition moved under Fed. R. Civ. P. 60(b) to reopen the Judgment entered by this Court in Boston Parent Coalition for Academic Excellence, Corp. v. The School Committee of the City of Boston, No. 21-CV-10330-WGY, 2021 WL 1422827 (D. Mass. Apr. 15, 2021), and which is now pending on appeal before the First Circuit. See No. 21-1303. The Coalition asserts that BPS had a legal obligation to disclose certain text messages between members of the Boston School Committee and that its failure to do so requires that the judgment be reopened. BPS opposes the Motion on the grounds that there has been no violation that triggers the application of Rule 60(b), as it had no legal obligation to produce or provide the text messages to the Coalition and there was no direct or indirect cover up of those text messages. Further, those text messages do not provide a basis for any change of this Court's decision as required by Rule 60(b).

II. STATEMENT OF PROCEEDINGS AND FACTS.

A. Public Record Requests and Responses.

1. Boston Globe.

On October 21-22, 2020, the School Committee discussed and adopted the Working Group's 2021-2022 Admission Plan ("Interim Plan").^{1/} On November 17, 2020, the Boston Globe made a request for text messages "related to BPS issues that were sent and received by each Boston School Committee members during their meeting that began on October 21 and ended on October 22." Affidavit of Catherine Lizotte ("Lizotte Aff.") (Exh. A hereto) at ¶ 3 and Att. A. As School Committee members do not possess publicly-issued phones, upon receipt of a public records request from the Boston Globe, BPS collected text messages from the personal

^{1/} The School Committee meeting lasted into the early morning of October 22, 2021.

cell phones of School Committee members and undertook to separate personal messages from those related to the member's official capacity or matters under the committee's purview. Lizotte Aff. at Att. A. In consultation with the then Corporation Counsel Eugene O'Flaherty, First Assistant Corporation Counsel for Government Services Henry C. Luthin, and the Director of Public Records Shawn A. Williams, a final determination was made concerning what records were responsive to the Boston Globe's request and the form of their disclosure. Id. at ¶ 6; Affidavit of Henry Luthin ("Luthin Aff.") (Exh. B hereto) at ¶¶ 2-4. Due to difficulty in reading some of the screen shot images, BPS decided to provide a type written version of the text messages. Id. Further, to assist with the readability of the text messages, BPS transcribed the text messages that were determined to be "made" or "received" in the School Committee member's official capacity under the Massachusetts Public Records Law, M.G.L. c. 4, § 7(26) and c. 66, § 10. Then BPS transmitted 8 pages of transcribed text messages to the Boston Globe. Lizotte Aff. at Atts. U and C.

Following the Boston Globe's publication of some screen shots of texts that had not been transcribed, BPS, through Shawn Williams, Boston's Director of Public Records and Records Access Officer, sent to the Globe, as well as all others who had requested text messages, all of the screen shots of the text messages that had been collected. Affidavit of Shawn A. Williams ("Williams Aff.") (Exh. C hereto) at ¶ 17 and Att. 1.

2. Darragh Murphy.

On November 19, 2020, BPS received six separate public record requests from Darragh Murphy, a Boston resident from Dorchester.^{2/} Lizotte Aff. at ¶¶ 7-12 and Att. D-1. BPS

^{2/} In Boston's tracking system for public records requests, each request is assigned a number. When there are documents responsive to a request, those documents are provided electronically through a Google drive.

responded to all six of the requests on January 13, 2021 under cover of a single correspondence.

Id. at ¶ 13 and Att. J.

One of Murphy's requests (Request #R001023-111920) sought:

[c]opies of all electronic communications, including emails, text messages, voicemails, social media messages, tweets, etc, to and from Superintendent Cassellius, her staff and/or assistants, and all members of the Boston School Committee, and all members of the Exam School Working Group regarding the Exam School Working Group, including electronic attachments to all electronic communications.

Lizotte Aff. at ¶ 9 and Att. F. On January 13, 2021, BPS provided approximately 213 pages of email correspondence and related documents responsive to Murphy's request for electronic communications regarding the Exam School Working Group. Id. at ¶ 13 and Att. J. See also Affidavit of Darrah Murphy in Support of Parent Coalition ("Murphy Aff.") at ¶¶ 5-7 and Att. C. The response did not include any text messages. Id. at ¶ 7.

Subsequently, Murphy made a request on February 12, 2021, for information regarding the Exam School applicant pool for the 2021/2022 school year. On February 23, 2021, Murphy made a further request seeking:

-Copies of ALL electronic text messages, instant messages, and any other form of electronic communication sent and/or received, including any and all "group" messages sent and/or received by more than one of the following listed individuals, during the School Committee meeting scheduled for October 21, 2020, from the time the meeting started on 10/21/2020 until it was officially adjourned on Thursday, October 22, 2020, between and among each and all of the following: Superintendent Brenda Cassellius SC Chair Michael Loconto SC Members: Lorna Rivera Jeri Robinson Michael O'Neil Alexandra Oliver-Davila Hardin LK Coleman Quoc Tran.

-List of students who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School), de-identified and sorted by GPA.

-All of the Grade Point Averages sorted by Zip Code of the students, de-identified, who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School). Please provide the list by zip code. For example:
Zip Code 02122: List all the GPA's of the de-identified students currently comprising the

applicant pool who reside in Zip Code 02122.

Zip Code 02126: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02126.

And so on until every Zip Code in the City of Boston is included in the response, including Zip Codes for which there are no applicants in the pool and Zip Codes in which there are fewer than 10.

-Written transcript of the entire School Comm meeting held on October 21, 2020

Lizotte Aff. at ¶ 14 and Att. K. See also Murphy Aff. at ¶ 8 and Att. D. BPS responded to the bulk of Murphy's request on March 22, 2021. Lizotte Aff. at ¶ 17 and Att. O. However, in response, to the portion of Murphy's request seeking text messages, the BPS responded on March 9, 2021, by providing the document containing transcribed text messages previously provided to the Boston Globe. Id. at ¶ 16 and Att. M.

As a requester of text messages related to the October 21-22 meeting, on June 18, 2021, Murphy was provided with copies of all the screen shots of text messages after portions thereof had been published in the Boston Globe. Williams Aff. at ¶ 17 and Att. 1.

3. The Coalition.

On November 20, 2020, the Coalition – the eventual Plaintiff in this case – made an extensive request for documents itemized in a four-page appendix covering fifteen (15) separate requests for information or data sets regarding the October 21, 2020 exam school admission presentation to the Boston School Committee. Lizotte Aff. at ¶19 and Att. P. A response was provided on January 13, 2021. Id. at ¶ 17 and Att. Q.

Subsequently, on February 12, 2021, the Coalition requested “the total number of applicants sorted by zip code for the current Fall 2021 Boston Exam Schools Admission cycle.” Lizotte Aff. at 20 and Att. R. A response was provided on March 22, 2021. Id. at ¶ 20 and Att. S.

The Coalition made a further request for information on June 23, 2021, and the response is currently pending. Id. at ¶ 21 and Att. T.

As the Coalition had never requested text messages made and received during the October 21-22, 2020 School Committee meeting, it was not provided with the screen shots provided to the Globe, Murphy and others. Lizotte Aff. at ¶ 22.

B. The Coalition and Darragh Murphy.

Until raised by counsel for the Coalition, Cal Stein, Esq., in a June 16, 2021 email to the undersigned, neither BPS nor its attorneys were aware that there was any relationship between Murphy and the Coalition. It was not until receipt of her affidavit in support of the Coalition's Motion that BPS and its counsel was even aware that Murphy was a "member" of the Coalition.

Following service of the Complaint in this case, BPS through its counsel sought to determine whether the Coalition would have standing to bring this action. Therefore, Thomas Costello, an attorney with the undersigned law firm, obtained copies of the Articles of Organization, an Amendment to the original Articles, and a Business Entity Summary from the Massachusetts Secretary of the Commonwealth's website. Affidavit of Thomas Costello ("Costello Aff.") (Exh. D hereto) at ¶¶ 4-5 and Att. A. Officers of the Coalition are listed in the Articles and referred to in the Amendment. None of these documents mention Darragh Murphy.

C. Procedural Facts.

On February 26, 2021, the Complaint in this case was filed. At the scheduling hearing on March 3, 2021, the following exchange occurred:

Mr. Hurd: Judge, there is one. So I'm presuming that – that given our good-faith efforts in all parts...of everybody concerned, to reach a case-stated solution by the 15th, that launching discovery at this point would not be something the Court would want us to do?

The Court: That's correct.

Mr. Hurd: I will make a point, your Honor, ...no problem with that. I would make the point that if we are unable to reach agreement on some facts that may be critical to the Court's decision, that some expedited discovery may be needed come the morning of the 16th.

The Court: ...I'll hear you on that. I will tell you, where you want equitable relief and where the School Committee will have delayed – respectfully, and I appreciate it, for so long as it can, ...if we're going to have a trial, I don't know how much discovery is necessary, I think maybe just getting witnesses in here and getting them to testify is what we need....

Transcript of Zoom Hearing March 3, 2021 at 20. Thus, the Court issued an order directing that the parties work together to reach a stipulation of facts and “no discovery prior to the March 15, 2021 hearing.” ECF No. 27.

As directed by the Court, the parties worked to agree on the facts for inclusion in an Agreed Statement of Facts. In the introduction, the parties agreed that:

[t]o the extent the statements below cite to documents, the documents are true and accurate copies and the parties refer the Court to those documents for a more thorough discussion of the facts.

ECF 38 at 1.

In addition, the Coalition and BPS agreed to include the following:

67. A true and accurate transcription of text messages between Boston School Committee members, Vice-Chairperson Alexandra Oliver Davila and Lorna Rivera during the October 21, 2020 Boston School Committee meeting is attached as Document 72.
[Intervenors object to this Paragraph.]

68. A true and accurate transcription of text messages between Boston School Committee Member, Vice-Chairperson, Alexandra Oliver-Davila and Superintendent Brenda Cassellius during the October 21, 2020 Boston School Committee meeting is attached as Document 73.^{3/} **[Intervenors object to this Paragraph.]**

ECF 38 at ¶¶ 67-68.

^{3/} The inclusion of these provisions had been previously proposed by the Coalition in an earlier draft of the Agreed Statement of Facts.

Following briefs and oral argument, the Court issued its decision on April 15, 2021. 2021 WL 1422827 (D. Mass. 2021). This Court denied the Coalition’s request for preliminary injunction and entered judgment in BPS’s (and Intervenor Defendants’) favor. Among other things, this Court upheld the constitutionality of the Interim Plan after finding a “rational basis” review applied, rather than the “strict scrutiny” argued by the Coalition. *Id.* at *10-14. As part of its decision, the Court found that Coalition had failed to establish that the Interim Plan had a disparate impact and an invidious discriminatory purpose. *Id.* at *14-16.

On April 28, 2021, the First Circuit denied the Coalition’s motion for injunction pending appeal, essentially adopting this Court’s reasoning in determining that the Coalition had failed to demonstrate the substantial likelihood of success on the merits of its claim. See Bos. Parent Coal. for Acad. Excellence Corp. v. Sch. Comm. of City of Bos., 996 F.3d 37 (1st Cir. 2021).^{4/}

III. ARGUMENT.

A. BPS Responded To The Public Records Requests In Accordance With The Massachusetts Public Records Law.

The Coalition conflates the Massachusetts public records statute and the discovery rules of the Federal Rules of Civil Procedure. Public records requests and responses are governed by a statutory scheme separate and apart from the rules of this Court. See M.G.L. c. 4, § 7(26) and c. 66 §10 (“Public Records Law”). Indeed, the Coalition’s Motion rests entirely upon the unfounded assumption that BPS must have been aware of the relationship between the Coalition and Murphy and therefore purposefully withheld from the Coalition the text messages at issue in this case.

BPS’s public records responses were reasonable and at no time appealed by the requestors. For those aggrieved by a public entities’ response to a request, the proper means of

^{4/} Additional facts will be discussed in the Argument section below.

redress is not here; rather, it is to the Supervisor of Public Records or the Superior Court. See M.G.L. c. 66, § 10(a).

A “public record” is a record “made or received by” a public employee acting in his or her capacity as a public employee, or, as in the instant matter, as a member of a school committee. M.G.L. c. 4, § 7(26). This includes “all books, papers...or other documentary materials or data, regardless of physical form or characteristic.” Id. “Other documentary materials or data” encompasses public records that are a product of advances in technology, such as electronic mail, social media, and text messages. See Richard T. Holland, To Tweet or Not to Tweet? Social Media, Public Records, and the Open Meeting Law, Vol. 28, No. 4, Municipal Advocate, 22 (2018).

Further, public records may exist outside the direct custody or control of a public entity. Supervisor of Public Records Bulletin 03-96, Application of the Public Records Law to Electronic Records Access, <https://www.sec.state.ma.us/arc/arcrmu/rmubul/bul396.htm> (last visited: July 5, 2021) (“the availability of information in the custody of Massachusetts governmental entities is dependent upon the substance of the information, rather than the form in which it is maintained”). In other words, “access to a record pursuant to the Public Records Law rests on the content of the record” and whether it relates to public business. William Francis Galvin, A Guide to the Massachusetts Public Records Law, p. 9 (202), <https://www.sec.state.ma.us/pre/prepdf/guide.pdf> (last visited: July 5, 2021); see also Guide for Members of Public Boards and Commissions, Massachusetts office of the Inspector General, p. 11 (2017), <https://www.mass.gov/doc/guide-for-members-of-public-boards-and-commissions/download> (last visited: July 5, 2021).

On November 17, 2020, BPS received its first request for text messages “related to BPS issues that were sent and received by each Boston School Committee members during their meeting that began on October 21 and ended on October 22” from the Boston Globe. Lizotte Aff. at ¶ 3. Whereas Boston School Committee members do not have BPS-issued mobile phones, BPS requested members submit copies or “screenshots” of their text messages for that time period to the Records Access Officer. Then, BPS reviewed the screen shots and determined that, due to legibility issues, the best course was to provide a transcript of messages to the Boston Globe. Lizotte Aff. at ¶ 4-15.

BPS conducted a review of each message to determine whether its content pertained to the members’ public role. Lizotte Aff. Exh. X. Messages that were personal in nature were not included. Id. For example, messages about “westie whites” and “eating kit kats” were not included because BPS believed those comments were not made in the member’s public capacity. Id.; Murphy Aff. at Att. H.

Ultimately, a transcript was provided with ellipses (i.e., “*****”) indicating where conversations about public business had stopped and started. BPS described its process in a cover letter to the Boston Globe, stating “While no portions of texts were redacted based on statutory exemptions to the public records law, BPS did omit portions deemed not ‘related to BPS issues.’” Lizotte Aff. Exh. 1. BPS considered its response completed and the Boston Globe did not appeal it. M.G.L. c. 66, § 10(a).

After the Boston Globe published on the matter, Murphy made several requests to BPS for public records. Lizotte Aff. at Atts. 2 to 7. Murphy did not identify herself as a member of or affiliated with the Coalition. BPS responded to these requests, including notice of the requestors’ rights to appeal. Id. at Att. 9, 10. The responses were not appealed. See M.G.L. c. 66, § 10(a).

Murphy made an additional request for text messages again on February 23, 2021.^{5/} Lizotte Aff. at Att. 12. On March 9, 2021, BPS responded to Murphy's request with the same document that was previously provided to the Boston Globe. Id. at Att. 14. BPS did not conduct any additional analysis of the text messages because it had already reviewed the them and made the determination regarding the School Committee members' public functions. Lizotte Aff. ¶ 16. BPS inadvertently did not attach the same cover letter that it did to the Boston Globe response, it still included a right of appeal. Id. Murphy did not appeal this response.

The Coalition's Motion improperly suggests that it made the public records requests at issue or that BPS had knowledge of Murphy's involvement with the Coalition. In the Coalition's Preliminary Statement, it states that the text messages "should [have] been provided to the Boston Parents in response to its public records requests."^{6/} Coalition's Memo at 1. However, the Coalition itself never made a request for text messages. Lizotte Aff. at ¶ 22. Information from the Secretary of State's Office available to BPS at the time of the Coalition's filing did not list Murphy as a member or officer of the Coalition. Costello Aff. at ¶¶ 4-5 and Att. A. Furthermore, Murphy made her requests in her individual capacity with no apparent association to the Coalition. Lizotte Aff. at Atts. 2 to 7. Nevertheless, the Coalition continues to represent throughout its Motion that it was the requestor of text messages.

Now, Murphy now takes issue with the sufficiency of BPS's response. In her affidavit, Murphy details that BPS's responses did not include actual copies of the requested messages – a detail that would have been immediately evident upon receiving BPS's response. See Murphy Aff. at ¶ 20. Murphy also recognizes that "instead of producing [the text messages], the City of

^{5/} The Coalition did not file its lawsuit until February 26, 2021. At that time, BPS remained unaware of Murphy's affiliation with the Coalition.

^{6/} The Coalition refers to itself as "Boston Parents" in its Motion.

Boston used an ellipsis,” which suggests that the transcript was not complete. *Id.* However, rather than seeking clarification or exercising her right to appeal BPS’ response at the time, the Coalition now brings Murphy’s grievances to this Court for redress rather than Murphy appealing them to the Supervisor of Public Records or Massachusetts Superior Court. M.G.L. c. 66, § 10A.

Now, in this Court, the Coalition challenges the sufficiency of BPS’s responses to Murphy’s public records requests. In her affidavit, Murphy details that BPS’s responses did not include actual copies of the requested messages – a detail that would have been immediately evident upon receiving BPS’s response. *See* Murphy Aff. at ¶ 20. Murphy also recognizes that “instead of producing [the text messages], the City of Boston used an ellipsis,” which suggests that the transcript was not complete. *Id.* However, rather than seeking clarification or exercising her right to appeal BPS’ response at the time, the Coalition now brings Murphy’s grievances to this Court for redress rather than before the Supervisor of Public Records or Massachusetts Superior Court. M.G.L. c. 66, § 10A.

B. The Coalition Fails To Prove Fraud, Misrepresentation, Or Substantial Interference.

The Coalition’s argument is divorced from this case’s procedural history and mischaracterizes BPS’s conduct. The transcript submitted to the Court as part of the agreed upon record was an excerpt created and provided by the Coalition for inclusion in the Joint Agreed Statement of Facts. The Coalition and BPS represented to the Court that the excerpt was:

A true and accurate transcription of text messages between Boston School Committee Members, Vice-Chairperson Alexandra Oliver Davila and Lorna Rivera during the October 21, 2020 Boston School Committee meeting.

ECF No. 37 at ¶ 67.

At no point did BPS represent that the excerpt was a complete transcription of all text messages between school committee members. Similarly, the Coalition never made such an assertion which would have led into inquiry by BPS' counsel.^{7/}

Under Rule 60(b)(3), a Court may relieve a movant from a final judgment if it proves by clear and convincing evidence that fraud, misrepresentation, or misconduct by an opposing party substantially interfered with its ability to prepare for and present its case fully and fairly. See FRCP 60(b)(3); See also Anderson v. Cryovac, Inc., 862 F.2d 910, 923 (1st Cir. 1988); Karak v. Bursaw Oil Corp., 288 F.3d 15, 21 (1st Cir. 2002). Courts have not yet provided a useful definition of “fraud on the court.” Roger Edwards, LLC v. Fiddes & Son LTD., 427 F.3d 129, 133 (1st Cir. 2005). Even “perjury...alone has never been sufficient.” Id., quoting Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 2870, at 419-20 (1995). Nevertheless, “[t]he actor’s intent “is not immaterial” in assessing conduct under Rule 60(b)(3). Anderson, 862 F.2d at 925.

Regarding nondisclosure, the First Circuit has explained that “[it] comes in different shapes and sizes: it may be accidental or inadvertent, or considerably more blameworthy (though still short of fraud or outright misrepresentation)” and not all forms of “nondisclosure” require a judgment be reversed. Id. None of the cases cited by the Coalition relate to public records requests and a party’s obligations in a case with a similar procedural posture as here. In Anderson, the evidence at issue – interrogatories and exculpatory documents – were the subject of pretrial discovery. 862 F.3d 910 (remanded); see also Anderson v. Beatrice Foods Co., 127 F.R.D. 1 (D. Mass. 1989). In Karak, the Court considered competing affidavits. 862 F.2d 21 (motion still denied). In Roger Edwards, LLC v. Fiddes & Son LTD, the Court considered a Rule

^{7/} Indeed, when the Coalition’s counsel raised questions during the development of the Joint Agreed Statement of Facts undersigned counsel attempted to obtain answers.

60(b)(3) motion that occurred “after extensive discovery.” 427 F.3d 129 (1st Cir. 2005) (motion still denied). In Rozier, the movant alleged failure to fully comply with a discovery order and accurately answer interrogatories. 573 F.2d 1332 (motion still denied).

1. The Coalition has failed to show that BPS committed fraud, misrepresentation, or misconduct.

At the initial hearing, the Court ordered that no discovery would be allowed and urged the parties to work together to supply the Court with an agreed-upon record. The Coalition had thousands of pages of documents that it wished to offer into evidence, including an excerpt of the text message transcription. Clearly, the document offered by the Coalition was not a full and complete transcript; rather, it was an excerpt of the document provided to Darragh Murphy and the Globe, containing a specific conversation between two School Committee members.

The Coalition did not proffer any details about the document that would warrant additional inquiry. BPS did not know the exact source of the document; nor did the Coalition make any representations about it. However, BPS was aware that the City of Boston had responded to public records requests for School Committee communications. Lizotte Aff. at ¶ 3. A review of the Coalition’s document showed a transcript of a discrete conversation between two School Committee members. ECF Nos. 38-72 and 38-73.

The facts are void of fraud, misrepresentation, and misconduct. BPS attested that only the exhibit was a “true and accurate transcription of text messages,” which it certainly was. BPS did not attest to it being a complete transcript of all the text messages between the two School Committee members in both their personal and public capacities under the Public Record Law. The Coalition’s argument hinges upon this fact, which they have failed to prove. As such, the Motion should be denied.

2. The Coalition fails to prove that BPS substantially interfered with its ability to prepare for and present its case fully and fairly.

Nevertheless, even if the Court were to find that fraud, misrepresentation, or misconduct occurred, the Coalition fails to prove that they were prevented from fully and fairly preparing or presenting their case. The text messages at issue have no effect on the Coalition's theory of the case. Evidence that is "cumulative, insignificant, or of marginal relevance," as is the case here, would "needlessly squander judicial resources." Anderson, 862 F.2d 924. Unlike many cases where the evidence at issue has been destroyed, here the Court has the messages themselves to consider. Anderson, 862 F.2d at 926.

Comparing the Coalition's Motion to previous briefing, the text messages would merely be cumulative and have no effect on the Coalition's theory of liability. The Coalition seeks to utilize the text messages to support their argument for the application of strict scrutiny - an argument that they already fully briefed and the Court considered. The Coalition's leading argument was that "Defendant's Racially Discriminatory Purposes Motivate the Zip Code Quota Plan" and fully briefed the application of a strict scrutiny analysis. ECF No. 63 at 3-8.

As the Coalition acknowledges, the text messages at issue relate solely to its subsidiary argument about racial animus – that is, it was unable to show that the Interim Plan and its impact evidenced purposeful discrimination. Here, the Coalition alleges that evidence of racial animus by School Committee members does.

Before this Court, the Coalition focused on Chairperson Loconto's apparent mocking of Asian names at the October 21, 2020 School Committee meeting and Committee members Oliver-Dávila and Rivera's text message exchange about it. While the Court found that Loconto statements were "racist," the fact that an additional message exchange add similarly inappropriate statements does not establish that the non-disclosure of the texts substantially

interfered with the Coalition's ability to prepare for and present its case. The "new evidence" is cumulative and has no effect on the Coalition's theory of the case.

C. The Coalition Fails To Prove The Existence Of Newly Discovered Evidence That, With Reasonable Diligence, Could Not Have Been Discovered In Time To Move For A New Trial.

The Coalition also seeks the Court's relief under Rule 60(b)(2). Under this rule, a court may relieve a party from a final judgment upon finding that newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Fed. R. Civ. P. 59(b). See Fed. R. Civ. P. 60(b)(2). To obtain such relief, the movant must prove specifically:

- 1) the evidence has been discovered since the trial;
- 2) the evidence could not by due diligence have been discovered earlier by the movant;
- 3) the evidence is not merely cumulative or impeaching; and
- 4) the evidence is of such a nature that it would probably change the result were a new trial to be granted.

Mitchell v. United States, 141 F.3d 8, 18 (1st Cir.1998). The Coalition fails to meet its burden with regard to newly discovered evidence.

1. The Coalition fails to prove that the evidence is not merely cumulative or impeaching.

The newly discovered evidence – text messages – is merely cumulative in nature as the Coalition repeatedly pointed to alleged racial animus in its prior briefing. Under the Mitchell framework, the movant must prove that the evidence is not merely cumulative or impeaching in nature in order to prevail. See 141 F.3d at 18. The Coalition points toward the two text messages of Olivera-Davila and Rivera as evidencing the whole committee's racial animus; however, the

Coalition had already assigned a racial animus toward these two members and the committee. Compare Kettenbach v. Demoulas, 901 F. Supp. 486, 597 (D. Mass. 1995) (where newly discovered evidenced offered an “entirely different theory of the case than offered at trial.”).

The Court fully explored the issue of alleged animus, specifically including that of Rivera and Oliver-Dávila. The Coalition briefed and the Court considered multiple statements of Rivera during working groups. See ECF No. 3 at 5-6. The Coalition briefed and the Court considered the statements of Oliver-Dávila during working groups. Id. at 6. The Coalition already argued and the Court considered that Rivera and Olivera-Davila expressed racial animus in their text messages.

The Court’s ruling appropriately concerned the constitutionality of the Committee’s actions as a whole – not the alleged animus of individual members. The Coalition already argued and the Court considered statements that the Coalition believed to be “the smoking gun of an overtly discriminatory statement” several times over. ECF No. 63 at 17. Therefore, the two new text messages upon which the Coalition’s Motion hinges are merely cumulative.

2. Plaintiff fails to prove the evidence would cause a change in result at a new trial.

The Coalition’s Motion should be denied because even were the new evidence considered at a new trial its underlying claim still fails. As discussed, the Coalition must prove “the evidence is of such a nature that it would probably change the result were a new trial to be granted.” Mitchell, 141 F.3d at 18.

As argued above, the “newly discovered evidence” relates solely to the subsidiary argument about racial animus – that is, unable to show that the Interim Plan and its impact evidenced purposeful discrimination, the Coalition alleged that evidence of racial animus by School Committee members met their burden. Before this Court, the Coalition focused on

Chairperson Loconto's apparent mocking of Asian names at the October 21, 2020 School Committee meeting and Committee members Oliver-Dávila and Rivera's text message exchange about it.

With respect to Loconto, the Court found "no persuasive evidence that any other voting member had such animus" (Decision at 45) and that that the Oliver-Dávila and Rivera messages "do not evidence an invidious discriminatory purpose" because they "evidence concern about the remarks and speculation about the backlash from the comments [but] do not demonstrate that the members of the School Committee supported the Chairperson's racist mocking." *Id.*

Presumably, the Coalition would have made similar arguments with respect to the newly disclosed messages. However, while wholly inappropriate and evincing extremely poor judgment, these messages simply do not show that the Interim Plan was motivated by racial animus. First, Rivera's comment – "Wait til the white racists start yelling [a]t us" – merely expresses her personal belief that white people she considers racist would attempt to confront the Committee and challenge the Interim Plan on racial grounds. Oliver-Dávila's response – "Whatever...they are delusional" – is equally innocuous. To claim that White racists are "delusional" is not a controversial stand with which any right-thinking person would take issue.

While more problematic, Rivera's related comment – that she is "[s]ick of westie whites" – offers more of the same. Rivera's evident frustration with this particular group's insistence that its privileged status be maintained is, if not politically correct, at least explainable. It certainly does not rise to the level of an affirmative showing of some malicious racial animus on the part of Rivera specifically, or the School Committee generally, in implementing the Interim Plan.

Finally, even could these unfortunate messages be viewed in the starkly nefarious way the Coalition urges, they still would not change the Court's underlying ruling. Just like with

Loconto's statements, there is no evidence that any other Committee members agreed with or supported these views. Without proof that the new messages would change the Court's ruling, the Coalition's Motion should be denied.

D. The Coalition Fails To Prove Any Other Reason That Justifies Relief.

Under Rule 60(b)(6), a party may obtain relief from judgment for "any other reason that justifies relief." The Coalition fails to prove any such reason and merely rely upon their arguments for relief under Rule 60(b)(2) and (3) when requesting such relief.

Relief from judgement is an extraordinary circumstance. Because the Coalition does not meet their burden under Rule 60(b)(2) and (3), its claims must fail. Compare Toole v. Baxter Healthcare Corp., 235 F.3d 1307, 1317 (2000). "[S]ubpart (6) is properly invoked only where there are extraordinary circumstances, where the judgment may work an extreme and undue hardship and where the asserted ground for relief are not recognized in clauses (1)-(5) of the Rule." Gonzalez v. Gannet Satellite Info. Network, Inc., 90 F.Supp. 329, 331 (N.D.N.Y. 1995), *aff'd*, 101 F.3d 109 (2d Cir. 1996) (quotations and citations omitted).

The Coalition asserts no extraordinary circumstances; therefore, BPS respectfully requests that the Motion be denied.

IV. CONCLUSION.

For all of the foregoing reasons, the Court should deny the Coalition's Motion.

Respectfully submitted,

SCHOOL COMMITTEE OF THE CITY OF
BOSTON, ALEXANDRA OLIVER-DAVILA,
MICHAEL O'NEIL, HARDIN COLEMAN,
LORNA RIVERA, JERI ROBINSON, QUOC
TRAN, ERNANI DeARAUJO and BRENDA
CASSELLIUS,

By their attorneys,

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Legal Advisor

Boston Public Schools

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Boston, MA 02119

(617) 635-9250

Dated: July 6, 2021

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and that paper copies will be sent by first class mail, postage prepaid, to those indicated as non-registered participants on July 6, 2021.

/s/Kay H. Hodge

Kay H. Hodge

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BOSTON PARENT COALITION FOR
ACADEMIC EXCELLENCE CORP.,

Plaintiff,

v.

THE SCHOOL COMMITTEE OF THE CITY
OF BOSTON, ALEXANDRA
OLIVER-DAVILA, MICHAEL O'NEILL,
HARDIN COLEMAN, LORNA RIVERA, JERI
ROBINSON, QUOC TRAN, ERNANI
DeARAUJO, and BRENDA CASSELLIUS,

Defendants,

Civil Action No. 1:21-cv-10330-WGY

and

COUNSEL FOR THE BOSTON BRANCH OF
THE NAACP, GREATER BOSTON LATINO
NETWORK, ASIAN PACIFIC ISLANDER
CIVIC ACTION NETWORK, ASIAN
AMERICAN RESOURCE WORKSHOP,
MAIRENY PIMENTEL, and H.D.,

Intervenors.

AFFIDAVIT OF CATHERINE LIZOTTE

I, Catherine Lizotte, do hereby depose and state as follows:

1. I am an attorney and member in good standing of the Massachusetts bar.
2. I currently serve as the Legal Advisor to Boston Public Schools ("BPS"). In that role, I oversee the Office of Legal Advisor, which is a part of the City of Boston Law Department. I report to the First Assistant Corporation Counsel and Corporation Counsel of the City of Boston.
3. On October 22, 2020, BPS received the following public records request from James

Vaznis at the Boston Globe:

Hi all,

Under the state's public records law and the state's open meeting law, I am seeking copies of all cellular telephone text messages and emails related to BPS issues that were sent and received by each Boston School Committee member during their meeting that began on Oct. 21 and that ended on Oct. 22. This request applies to all members who sat on the committee for the Oct. 21 meeting, including then-Chair Michael Loconto.

Thank you for your help with this.

Best,

Jamie

Attachment A (Email Request October 22, 2020).

4. After receiving this request, I sought to determine whether any records existed that were responsive to this request. As school committee members do not possess publicly-issued devices, they provided potentially responsive records from their personal devices to me. I reviewed and analyzed whether any of the texts from the personal devices of school committee members were responsive to the request.

5. In reviewing and analyzing the text messages, I was mindful of the following:

- a. A public record is a record “made or received by” a public employee acting in his or her capacity as a public employee. M.G. L. c. 4., § 7 (26).
- b. Not every communication sent by a school committee member on a private device is “made or received” in his or her official capacity or to matters under the committee’s purview. See Guide for Members of Public Boards and Commissions, Massachusetts Office of the Inspector General at 11 (2017), available at <https://www.mass.gov/doc/guide-for-members-of-public-boards-and-commissions/download>. Attached for convenience at Attachment B.
- c. A case-by-case determination must be made about each communication, or

portion of a communication, each of which may contain various opinions or observations, to determine whether it was made in one's public or private capacity.

6. In consultation with the then Corporation Counsel Eugene O'Flaherty, First Assistant Corporation Counsel for Government Services Henry C. Luthin, and the Director of Public Records Shawn A. Williams, a final determination was made concerning what records were responsive to the Boston Globe's request and the form of their disclosure. Due to difficulty in reading some of the screen shot images, we decided to provide a type written version of the text messages. A cover letter and the transcribed records were sent to the Boston Globe on November 5, 2020. See Attachment C (November 5, 2020 Response to Boston Globe). Specifically, with respect to text messages, the response noted the following:

With respect to text messages, it is important to note that none of the members possess a mobile phone that is owned by BPS or the City of Boston. Each member was contacted and asked to provide text message records from the respective personal devices that are responsive to your request. While no portions of texts were redacted based on statutory exemptions to the public records law, BPS did omit portions deemed not "related to BPS issues."

Darragh Murphy Requests for Public Records

7. On November 19, 2020, Darragh Murphy made a public records request for:

[c]opies of all data sets, spreadsheets, formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Superintendent's Exam School Working Group to identify the number of school aged children in each Boston ZIP code, the median income of each Boston ZIP code, and the allocation of exam school seats per Boston ZIP code, including copies of all simulations run by the Exam School Working Group, the Superintendent's Office, the Boston Public School department, and the Boston School Committee, and all electronic communication to and from all members of the Exam School Working Group, the Superintendent, the Boston School Committee, the Mayor's Office, the Boston City Council, and Boston Public Schools offices, regarding the work of the Exam School Working group, its data and findings, and the simulations.

See Attachment D (Darragh Murphy November 19, 2020 Request (#R001025-111920)).

8. On November 19, 2020, Darragh Murphy made a public records request for:

[c]opies of all formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Boston Public Schools to convert, analyze, and standardize Grade Point Averages (GPA's) for all 6th grade applicants to Boston Latin Academy, the O'Bryant School, and Boston Latin School.

See Attachment E (Darragh Murphy November 19, 2020 Request (#R001024-111920)).

9. On November 19, 2020, Darragh Murphy made a public records request for:

[c]opies of all electronic communications, including emails, text messages, voicemails, social media messages, tweets, etc, to and from Superintendent Cassellius, her staff and/or assistants, and all members of the Boston School Committee, and all members of the Exam School Working Group regarding the Exam School Working Group, including electronic attachments to all electronic communications.

See Attachment F (Darragh Murphy November 19, 2020 Request (#R001023-111920)).

10. On November 19, 2020, Darragh Murphy made a public records request for:

ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students who did NOT receive invitations for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam school to which each applicant was NOT invited to attend, the sending school name, and the ZIP code of each applicant.

See Attachment G (Darragh Murphy November 19, 2020 Request (#R001021-111920)).

11. On November 19, 2020, Darragh Murphy made a public records request for:

ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam school to which each applicant was invited to attend, the sending school name, and the ZIP code of each applicant.

See Attachment H (Darragh Murphy November 19, 2020 Request (#R001020-111920)).

12. On November 19, 2020, Darragh Murphy made a public records request for:

"[g]rade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with sending school name and ZIP code of each applicant."

See Attachment I (Darragh Murphy November 19, 2020 Request (#R001019-111920)).

13. On January 13, 2021, BPS responded to Darragh Murphy's November 19, 2020 request. See Attachment J (Cover letter but not documents provided are in Attachment J). With regard to the request for electronic communications, BPS provided 213 emails and other related documents, but no text messages.

14. On February 12, 2021, Darragh Murphy made a public records request for:

- a. "list of students who are in the applicant pool . . . for the school year 2021-2022" and
- b. a "list of students who applied for inclusion in the applicant pool . . . for the school year 2021-2022."

See Attachment K (Darragh Murphy February 12, 2021 Request (#R000275-021221)).

15. On February 23, 2021, Darragh Murphy made a public records request for the following:

-Copies of ALL electronic text messages, instant messages, and any other form of

electronic communication sent and/or received, including any and all "group" messages sent and/or received by more than one of the following listed individuals, during the School Committee meeting scheduled for October 21, 2020, from the time the meeting started on 10/21/2020 until it was officially adjourned on Thursday, October 22, 2020, between and among each and all of the following: Superintendent Brenda Cassellius SC Chair Michael Loconto SC Members: Lorna Rivera Jeri Robinson Michael O'Neil Alexandra Oliver-Davila Hardin LK Coleman Quoc Tran.

-List of students who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School), de-identified and sorted by GPA.

-All of the Grade Point Averages sorted by Zip Code of the students, de-identified, who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School). Please provide the list by zip code. For example:

Zip Code 02122: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02122.

Zip Code 02126: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02126.

And so on until every Zip Code in the City of Boston is included in the response, including Zip Codes for which there are no applicants in the pool and Zip Codes in which there are fewer than 10.

-Written transcript of the entire School Comm meeting held on October 21, 2020 which adjourned on Thursday, October 22, 2020.

-Written transcript of the entire School Comm meeting held on October 8, 2020. [October 2020 School Committee Text Messages].

See Attachment L (Darragh Murphy February 23, 2021 Public Records Request (#R000337-022321)).

16. On March 9, 2021, BPS responded to Darragh Murphy's February 23, 2021 request. See Attachment M (Cover letter response on #R000337-02232 but not documents provided are in Attachment M). With regard to the request for text messages, BPS produced the same document containing the transcribed messages that it had previously produced on November 5, 2020 to the Boston Globe because the obligation to produce did not include those messages that were deemed to be private as opposed to the member's public function. See Attachment N (Transcribed text messages). Hence, the wording of Darragh Murphy's February 23, 2021 request seeking "ALL" text messages did not alter the determination of whether the text was a public record. However, the cover letter accompanying the Globe records was inadvertently not included in the March 9, 2021 response.

17. On March 22, 2021, BPS responded to Darragh Murphy's February 12, 2021 request. See Attachment O (Response to Darragh Murphy Request (#R000275-021221)).

18. Darragh Murphy did not indicate in any of her public records requests that she was associated with BPCAE.

Boston Parent Coalition for Academic Excellence (“BPCAE”) Public Record Requests

19. On November 20, 2020, the Boston Parent Coalition for Academic Excellence (“BPCAE”) made a public records request containing fifteen (15) separate requests for information or data sets regarding the October 21, 2020 exam school admissions presentation to the Boston School Committee. See Attachment P (BPCAE November 20, 2020 Request ((#R001041-112320))). On January 13, 2021, BPS responded to BPCAE. See Attachment Q (Response to BPCAE Request).

20. On February 12, 2021, BPCAE made a public records request for:

the “total number of applicants sorted by zip code for the current Fall 2021 Boston Exam Schools Admissions cycle.”

See Attachment R. (BPCAE February 12, 2021 Public Record Request (#R000279-021221)).

On March 22, 2021, BPS responded to BPCAE’s February 12, 2021 request. See Attachment S (March 22, 2021 Response to BPCAE).

21. On June 23, 2021, the BPCAE submitted an additional request See Attachment T (BPCAE June 23, 2021 Public Record Request (#R001178-062321)). A response is pending.

Conclusion

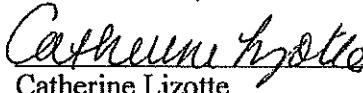
22. On June 18, 2021, Shawn A. Williams, Boston’s Director of Public Records, sent all who requested text messages, including the Boston Globe and Darragh Murphy copies of the screen shots of all text messages, the transcription and the emails sent to Ms. Murphy. The BPCAE did not receive this response as it had never requested text messages.

23. BPCAE did not indicate in any of its public records requests that Darragh Murphy was one of its members or that she was in any way associated with it.

24. I was not aware that Darragh Murphy was associated with the plaintiff in this action until my co-counsel for the defendants forwarded me an email sent to her by counsel for the

plaintiff on June 16, 2021, identifying the public records request to which BPS responded on March 9, 2021, as “our client’s FOIA.” See Attachment U. (June 16, 2021 Email from Counsel for Plaintiff with Attachments).

Signed under the pains and penalties of perjury this 6th day of July, 2021.


Catherine Lizotte

e

ATTACHMENT A

7/6/2021

Google Vault - Public records request

Public records request

email: "james.vaznis@globe.com James Vaznis" Thursday, October 22, 2020 at 9:08:09 PM Eastern Daylight Time
To: email: "jpalumbo@bostonpublicschools.org Jonathan Palumbo", email: "xandrews@bostonpublicschools.org Xavier Andrews"

Hi all,

Under the state's public records law and the state's open meeting law, I am seeking copies of all cellular telephone text messages and emails related to BPS issues that were sent and received by each Boston School Committee member during their meeting that began on Oct. 21 and that ended on Oct. 22. This request applies to all members who sat on the committee for the Oct. 21 meeting, including then-Chair Michael Loconto.

Thank you for your help with this.

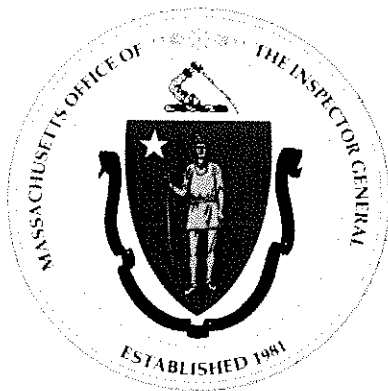
Best,
Jamie

Sent from my iPhone

ATTACHMENT B

Guide for Members of Public Boards and Commissions

How to be an Effective Member of a Public Board or Commission



Commonwealth of Massachusetts
Office of the Inspector General

Glenn A. Cunha
Inspector General

December 2017 Edition

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Guide for Members of Public Boards and Commissions

Congratulations on your appointment to a public board or commission (“public board”). Your service to the citizens of Massachusetts is essential to good government. Thank you for your commitment to fulfilling your duties and responsibilities as a public board member.

Public boards take many forms. Some provide direct oversight to a state, county or local governmental entity (collectively, a “public organization”). Other boards set policy for their public organization and some make advisory recommendations. Still others perform a combination of these functions.

Whether you serve on a state, county or local board, you support a public organization that provides public services with public funds. Your work is important, whether you are advising your public organization on policy matters, approving salaries, reviewing the budget, or assessing the executive director’s performance. Your participation, insights and engagement as a citizen and active decision-maker are essential to ensuring that your public organization fulfills its mission and uses public resources appropriately.

Who should use this guide?

If your board has a role in overseeing the public official leading a public organization – or if your board provides input on a public program, the use of public funds or the care of public property – you should read this guide. Similarly, if you are a member of a board that provides advice or recommendations to a public organization, this guide will help you fulfill your duties as a board member.

This guide outlines practices, such as upholding fiduciary principles, that will help you effectively perform your role. It also provides an overview of the laws that apply to your position. These laws relate to the meetings your board holds, your official acts and communications, and your individual conduct. These laws serve to promote open, transparent and accountable government, all of which are essential elements to our representative democracy.

Use this guide to understand your obligations and to help you perform your duties as a public board member to the best of your abilities. The appendix at the end of this guide contains additional resources, including contact information for state agencies that interpret and enforce the laws applicable to you and your board.

Thank you again for your commitment to fulfilling your duties and responsibilities as a public board member.

Public boards take many forms, such as:

- *Public university boards of trustees*
- *Redevelopment authority boards of trustees*
- *Municipal light department boards of commissioners*
- *Housing authority boards*
- *Town finance committees*
- *Library boards of trustees*
- *Municipal select boards*
- *Economic development authorities*

Practices for Effective Board Members

The following practices will help you succeed in fulfilling your obligations as a public board member.

1. Learn about the public organization.

When you are first appointed, get to know the public organization you serve. Learn about the public organization's mandate or mission, which may be found in state law or a local ordinance. A public organization's mandate often identifies the scope of its authority to carry out its public purpose or service, as well as any procedures governing how it achieves its mission and any regulations or by-laws that its officers or appointees must follow.

In addition, learn about *how* the public organization fulfills its mission. Read about the programs it operates and the segments of the public it serves. Ask for past annual reports and budgets, as well as a current organizational chart. Learn about recent achievements and upcoming initiatives or special projects.¹

Ask:

- What is the public organization's mission or mandate?
- What rules, regulations or by-laws govern the public organization, if any?

Delve deeper and ask:

- How does the organization carry out its mission or purpose?
- How is the organization structured?
- What is the organization's annual budget? Who sets the budget and who decides how it is spent?
- Who are the senior officials in the organization and what are their roles?
- What are the major projects or objectives that the public organization is considering over the next few years? What will be the projected cost of these projects?
- Are the proposed projects and objectives consistent with the mission of the public organization and with the organization's budget and other priorities?

The answers to these questions will help you understand how the public organization operates and will enable you to become an effective and involved board member.

¹ The State Auditor conducts periodic audits of state agencies, quasi-state agencies and housing authorities. If you serve on such a board, check the State Auditor's website, available at www.mass.gov/auditor, for audit reports on your public organization.

2. Educate yourself about the role of your board (and your role as a board member).

In order to be an effective public board member, you need to understand your board's role with respect to the public organization. Some boards provide direct oversight to ensure that the public organization operates effectively and in accordance with its mandate, while others work in an advisory capacity to help guide a public organization toward particular goals and outcomes. The board's role is usually set out in a statute, local ordinance or other enabling document.

You should understand the board's role and responsibilities in order to guide the public organization toward the realization of its mission, goals and objectives.

Ask:

- What is the scope of the board's authority and what is the source of that authority?
- What matters typically come before the board?
- Based on the board's role with respect to the organization, are there other matters that should be brought before the board?

You should also understand how the board operates, including how often it meets, how the agenda is established and the procedures that govern the meetings. As a starting point, read the meeting minutes from at least the past four board meetings.

Ask:

- How often does the board meet? Is the board required to meet on a specific schedule and, if yes, what is that schedule?
- Who sets the agenda for the meetings? Can board members submit topics for the agenda?
- Does your board follow written procedures for meetings, such as *Robert's Rules of Order*?
- How does the board vote? Are all votes conducted in the same manner?

Public boards should meet regularly to facilitate open, vigorous and in-depth discussions in compliance with the Massachusetts Open Meeting Law, which is outlined later in this guide.

Furthermore, take steps to learn how the chairperson and other officers are selected, if there are limits for serving as an officer and whether your board may establish committees. Request lists of all current board members and committees.

Your board may find it helpful to adopt a set of written operating procedures, including for the conduct of meetings, term limits and leadership appointments, if they are not already in place.

Ask:

- How are officers selected?
- Does the board have committees and if so, how are members selected to serve on them?

- Are there term limits for officers, board members or committee members?

3. Uphold fiduciary principles and act in the best interests of the public organization.

In some instances, the law may consider you a fiduciary. A fiduciary is someone who owes a particular duty of care, known as a fiduciary duty, to an entity or individual – in this case, a public organization. A fiduciary duty requires an individual to act with good faith, loyalty and due care. A fiduciary must act in the best interests of the public organization.

Even if you are not a fiduciary under the law, fiduciary principles should guide the decisions that you and your board make. Adhering to fiduciary principles will help the board recognize that it is a steward of the public funds entrusted to the organization, and that the board plays a vital role in ensuring the public organization

A fiduciary is “someone who is required to act for the benefit of another person on all matters within the scope of their relationship; one who owes to another the duties of good faith, loyalty, due care, and disclosure.” Black’s Law Dictionary 10th ed. (2014).

fulfills its mission. As part of upholding fiduciary principles, the board should always act independently, with care and in the best interests of the organization.

Board members who adhere to the fiduciary principles will be active participants in board matters, will stay informed and will act in the best interests of the organization. Fiduciary

Using fiduciary principles as the framework for your board will result in an active, well-informed board that acts in the public organization’s best interests and assists the organization in achieving its mission.

principles remind the board that it must act on behalf of the organization, not its executive. They will lead the board to actively oversee the executive and to expect accountability from the executive, which will help the public organization operate effectively, transparently and in accordance with its mission.

4. Exercise care when making decisions and voting by informing yourself, asking questions and expecting answers.

To be an active and effective board member, you must be informed. Consequently, before your board meets, arm yourself with accurate information to make thoughtful decisions. Take time to prepare for meetings in advance; read the materials that are distributed and think about the issues on the agenda.

Ask:

- How far in advance does the board receive meeting materials so that you can properly prepare for pending actions before voting on a matter before the board?
- What is the procedure for requesting the organization to provide additional information, either in advance of or at a meeting?

- What is the procedure for asking individuals from the organization to attend the meeting to provide additional information?

Public discourse, analysis and debate are expected, whether public board members are trustees of a public college or commissioners of a local housing authority. When your board meets, ask probing questions that are relevant to the issue and debate the issue at hand during meetings to get information that will help you make informed decisions. If the chair of the board or an official in the organization does not provide you with the necessary information to make an informed decision, ask for it. If you do not receive the information you need, ask to change the date of the vote.

Before voting on a matter, ask probing questions, such as:

- What statutes or regulations apply to the requested action?
- What internal procedures apply to the requested action and were those procedures followed?
- Does the requested action align with the public organization's mission, responsibilities, priorities and budget?
- Do you need additional data so that you can make an informed decision?
- Do you need to hear from others in the organization? For instance, does legal counsel or human resources have information necessary to make this decision?

Finally, exercise your own judgment and always act in the best interests of the public organization. Do not allow yourself to be marginalized by an executive or fellow board member who may assert knowledge or expertise above yours or who simply does not agree with you. Do not rubber stamp official acts that come before your public board – your work is important and you need to be informed.

5. Actively oversee the executive who leads the organization.

It is likely that your public organization is run by an executive, such as a public college president, a director or other professional, and that your board is responsible for overseeing the executive. If so, respect the trust the taxpayers placed in you. While you do not want to interfere with the day-to-day management of the public organization, you do want to make certain that the executive's actions align with the objectives of the public organization. The executive reports to you and is accountable to the board. Be an active overseer.

Expect the executive to timely inform the board of major projects, expenditures and initiatives. Use board meetings to discuss substantive issues with the executive, such as budget planning, capital projects and significant policy matters. Ask questions, seek clarification and get back-up documentation. Collaboration with the executive will require open communication and information-sharing.

Ask:

- What are the executive's objectives and priorities for the organization?
- Do these objectives align with the organization's mission and values?
- What are the financial costs of achieving these objectives?

To help both the executive and the organization, your board should conduct an annual performance evaluation of the executive. It also must establish a system to track and account for the executive's vacation, sick and work time. Both the performance assessment and the mechanism used to account for the executive's time should be established in writing. The board also should ensure that the organization can track other expenses and requests for reimbursements.

The board should approve the executive's expenses and reimbursements (at least those above a certain dollar threshold). This includes reviewing the back-up documentation for the executive's expenses and reimbursements. Staff who report to the executive are not in a position to question the executive's performance, expenditures or conduct; the board's independence and oversight in this regard are therefore critical.

Similarly, perform your due diligence before signing the executive's contract – whether it is the executive's first contract or a renewal. Your board should do its own, independent research to ensure that the salary and other benefits offered, including vacation time, sick leave and other fringe benefits, are reasonable and consistent with standard practices. Make sure that they are comparable to those of other executives with like experience and expertise who work in similar public settings. And very importantly, ensure that the compensation is consistent with the public organization's budgetary commitments.

Be clear about time expectations. If the executive must devote his full time and attention to the public organization, make that explicit in the contract. If the position is part-time, the contract should clearly set out time and attendance requirements.

Information about state salaries is accessible online through CTHRU, available at www.macomptroller.org.

Finally, apply the same due diligence if you have to recruit a new executive for the public organization. Conduct an appropriate search that provides you with a talented applicant pool. As part of the selection process, speak with references and conduct a background check.

Ask:

- What is the organization's budget for the executive's salary?
- How much time is the executive required to devote to the public organization?
- How does the organization document and verify the executive's work, vacation and sick leave hours?

Consider establishing an independent audit committee that reports to the board. Among other duties, the committee could periodically audit reimbursements and expenses at the executive level.

- What is the public organization's expense reimbursement policy? Is it consistent with the public organization's mission and objectives? Does it clearly define how the executive's expenses are reviewed and approved?
- Do the executive's reimbursement requests match legitimate expenses related to the public organization's public purpose?

6. Actively monitor and protect public expenditures.

Your board may be responsible for approving budgets, capital projects and other expenditures. If that is the case, your public board ensures that a public organization utilizes its finite public resources wisely and complies with the laws that govern the use of those resources. You are the steward of those resources as a public board member.

As a starting point, learn to read a financial statement. You do not need to be an accounting expert, but understanding financial statements is essential to ensuring that your organization is using its public resources appropriately. If accounting is not your area of expertise, consider asking a professional from within the organization to give the board a tutorial on reading financial statements. Be sure to not only look at the figures in the financial statement, but also be sure to review the accounting firm's notes regarding litigation and other matters that may affect the financial soundness of the organization. Also, when financial material is presented at a board meeting, ask questions to clarify any unclear information. Chances are high that if you are uncertain about the information, other board members are, too.

You also should understand the public bidding laws that apply to your organization. In Massachusetts, many public organizations must follow particular laws and procedures before undertaking construction projects; buying supplies, services and real property; or disposing of surplus supplies and property. The Legislature designed these laws to ensure that all qualified vendors have a fair and equal opportunity to compete for public contracts and that taxpayer money is spent wisely. To the extent you can, educate yourself or obtain training on these laws. Additional resources to help you understand these laws are available in Appendix A at the end of this guide.

Ask:

- What laws must the public organization follow related to purchasing or disposing of goods, services and real property?
- What laws must the public organization follow in connection with construction projects?
- What are the public organization's written procurement policies?
- What audit procedures are in place to ensure that the organization is complying with state law and its internal procedures?

The Office of the Inspector General provides several resources, including procurement charts and manuals, to help you understand public bidding and construction laws. For more information, please visit the Office's website, available at www.mass.gov/ig.

At the state level, the Massachusetts Comptroller maintains "CTHRU," a comprehensive electronic database of state expenditures, including state salaries and payments made to vendors by state agencies. Use this database, available at www.macomptroller.org, to learn more about your agency's expenditures or to compare your organization's expenses to other public organizations.

If you are a member of a local board that serves a local public organization, inquire about whether there is an electronic resource similar to "CTHRU," so that you may have more information at your fingertips about the budget, salaries and spending of the organization.

Armed with this information you will be able to make meaningful determinations about financial matters that come before your board.

7. Consider your ethical responsibilities and follow the Massachusetts conflict-of-interest law.

As a public board member, you likely are subject to the state's conflict-of-interest law, which is designed to ensure that all public employees act for the benefit of the public organization, free from personal bias or gain. The law impacts your conduct as a board member, as well as certain activities you undertake separate from your board membership. For instance, the law:

- Restricts you from discussing or voting on matters in which you or an immediate family member, or your private business has a financial interest.
- Restricts you from accepting gifts and gratuities, if given because of some official act or because of official position, even if the gift or gratuity would not influence your actions as a board member.
- Requires you to disclose in writing any appearances of a conflict of interest prior to performing your official duties, and prohibits favoritism toward a family member or friend or bias against a business associate.
- Restricts you from representing business or other interests before your board.

The law also requires you to:

- Complete training on the conflict-of-interest law. You have to acknowledge receiving a summary of the conflict-of-interest law every year and complete the Ethics Commission's free, online training program within 30 days after your appointment.
- File disclosures in certain instances involving actual and potential conflicts of interest.

You must acknowledge receipt of the conflict-of-interest summary annually and complete the online training program every two years. If you have not taken the training, contact the Ethics Commission (see Appendix A) or the individual or office that appointed you.

Keep the conflict-of-interest law especially in mind when your board deliberates or votes on an issue. Your vote matters. It is an official act and your decisions or deliberations must be

independent and free from personal bias, personal gain and personal advantage. When you believe there may be a conflict between your official duties and your personal interest, at a minimum you must disclose that conflict. Disclosure forms and instructions are available on the Ethics Commission's website.

The Ethics Commission provides free advice to all public employees on the conflict-of-interest laws. Its website, available at www.mass.gov/ethics, also contains helpful advisories, guides and rulings.

You must abstain or recuse yourself from a matter under consideration by your public board if certain financial interests are affected. If a matter before your board creates an appearance of a conflict for you, you must first disclose the nature of the conflict in writing before participating in deliberations and voting on the matter. At a minimum, disclosure creates transparency and helps ensure accountability, impartiality and independence. It enhances the public's confidence in the integrity and fairness of our government and its processes. It helps ensure the delivery of honest services unencumbered by personal interest or gain.

To help your board and your public organization comply with the conflict-of-interest law, ask:

- Have all board members completed the conflict-of-interest law's educational requirements?
- Does your board or the public organization understand how to complete and submit conflict-of-interest law disclosure forms? If so, where are they retained?
- Does your board have a written policy about abstention or recusal?
- Are you permitted to work on outside activities that may impact your role as a board member? If so, how are outside activity requests approved?
- Does your board require the executive to file disclosure forms or outside activity forms? If so, are the forms reviewed? Is there an approval process required? Are these activities monitored for potential conflicts?

You may want to consider circulating an annual "outside activities" form as part of an internal control plan related to possible conflicts of interest. It may prompt disclosure before a conflict arises.

Finally, remember that the conflict-of-interest law applies to your fellow board members, employees of the public organization and, in certain instances, to consultants and contractors. If you learn of a potential conflict of interest – whether by a board member, senior executive or employee – you need to properly address it. Seek advice from your board's legal counsel or contact the Ethics Commission.

8. Operate in compliance with the Massachusetts open meeting law.

When you were appointed, you should have received a copy of the state's open meeting law. Similar to the conflict-of-interest law, the open meeting law applies to both your individual conduct and the board's operations. For example:

- Public boards must give advanced notice of the topics that will be discussed at a meeting.
- Meetings of public boards must be open to the public, although in limited circumstances members *may* hold certain aspects of the meeting in closed session, away from public view.
- Discussing certain matters with other board members outside of a properly noticed meeting – such as by email or telephone – will likely violate the open meeting law.

Once appointed, all public board members must sign a certification form stating that they have received certain educational materials, that they understand the requirements of the open meeting law and that they understand the consequences for violating it. These educational materials include the text of the law, the Attorney General's regulations, the Attorney General's Open Meeting Law Guide, and copies of all determination letters from the past five years where the Attorney General found that the public body had violated the open meeting law.

Because the open meeting law promotes openness and transparency in government, it contains specific notice requirements to ensure that the public knows – prior to the meeting – when and where the board will meet, along with what topics the board intends to discuss at the meeting. Except in the case of an emergency, a public board must provide notice of its meeting 48 hours in advance (excluding Saturdays, Sundays and legal holidays). The notice must include the date, time and location of the meeting, as well as a list of all topics that the chair reasonably anticipates will be discussed.²

The law seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently. Consequently, a board may only discuss the topics listed in the meeting notice, unless the topic was not reasonably anticipated when the notice was posted. While public bodies (such as boards) may discuss topics that were not reasonably anticipated by the chair, the Massachusetts Attorney General encourages public bodies to postpone discussion of any topics of significant public concern until notice can be given to the public.

Further, while most board discussions must be public, as noted above, there are certain situations in which the board *may* vote to meet in private. In these instances, your public board may discuss a matter in what is known as an "executive session." An executive session may be held for any of ten permissible reasons, as specified in the open meeting law. Public bodies are required to post notice of anticipated executive sessions, listing the topics to be discussed behind closed doors with as much detail as possible without compromising the lawful purpose for secrecy. Public bodies must begin meetings in open session before entering executive session and must take a vote to enter executive session, again providing as much detail as possible about what will be discussed.

See Appendix B at the end of this guide for a list of the ten permissible reasons for entering executive session.

² The open meeting law also contains additional requirements concerning meeting notices, including where the notice must be posted.

The open meeting law prohibits communication between or among a quorum of a public board outside of a noticed meeting on any business within that board's jurisdiction.³ Therefore, a series of telephone calls or emails between a quorum of board members – often referred to as “serial deliberations” – could violate the open meeting law. This is because the public is entitled to notice and an opportunity to witness deliberations concerning board business.

Ask:

- Does your public organization post meeting notices in advance?
- Do members discuss only what is on the agenda at the meeting?
- Does your board vote to enter “executive session” properly and only for the reasons set forth in the open meeting law?
- Does your board have practices in place to ensure that members do not have serial deliberations that violate the open meeting law?

The open meeting law addresses many topics, such as remote participation and meeting minutes, that are not discussed here. The Massachusetts Attorney General's Office (“AGO”) is responsible for interpreting and enforcing the open meeting law. It produces a comprehensive guide to the open meeting law, as well as helpful educational material and rulings. The AGO also provides in-person and online trainings about the open meeting law. Visit the AGO's website, available at www.mass.gov/ago, or contact the AGO's Division of Open Government, to learn more about the open meeting law.

9. Ensure that you operate in compliance with the Massachusetts public records law.

The public records law is another way citizens may examine whether their government is functioning in accordance with its public policy objectives and in compliance with the law. Indeed, the public records law supports transparency of the decision-making process and promotes the accountability of public employees, public boards and government officials to the taxpayers.

Consequently, the law requires that you retain certain records for a period of time, and that you turn over certain records if a member of the public requests them – when they contain content related to your official capacity. *This is true even if the records are on your personal computer, personal cellphone or personal email account.*

All public boards receive and generate public records in the regular course of business. You also generate public records when you operate in your official capacity as a public board member. If you communicate with another individual in your official capacity or exchange information about matters under your board's purview, for instance, you may create a public

³ For the purposes of the open meeting law, a quorum is a simple majority of the members of the public board. For example, in the case of a five-member board, the quorum would be three.

record even if you use your personal email, voicemail or video recording to transmit that information. A common misperception exists that communications on personal email accounts or via text messages are not subject to the public records law; this is incorrect as all board-related communications are subject to public disclosure.

In addition, the law defines the term “record” very broadly and it includes more than written meeting minutes or agendas. For example, records can include emails, photographs, voicemails, video tapes, attendance lists and public meeting sign-in sheets. These records are subject to public records requests, and you may be required to keep these documents for a certain period of time. Check with your public organization and the Secretary of the Commonwealth to determine the full scope of your record retention obligations.

The Secretary of the Commonwealth's Office provides record retention schedules for state, county and local governmental entities.

Ask:

- Does your board have a written policy or a practice related to managing public records requests?
- Do public board members respond to inquiries about board matters made by the public in a manner that is consistent with this policy?
- Does your board have an appointed Records Access Officer?
- Does your board have a practice related to the use of personal devices or emails?
- Does your board have a written records retention policy?

For more information on the state's public records law, please contact the Public Records Division at the Secretary of the Commonwealth's Office at (617) 727-2832. The Secretary of the Commonwealth's Office also has developed a free, comprehensive guide to the public records law. The guide, titled *A Guide to the Massachusetts Public Records Law*, is available on the Secretary of the Commonwealth's website at www.sec.state.ma.us. See Appendix A.

10. Detect and report suspected fraud, wrongdoing or other misuse of public resources: If you see something, say something.

Any misuse of public funds and resources affects a public organization's financial well-being, reputation and ability to accomplish its mission. As a public board member, you have an important role in preventing and detecting fraud. You and your fellow members are custodians of the public trust. You have the responsibility to protect public resources, including money, assets, real property, employee time, digital records and other types of data. Massachusetts citizens have entrusted these public resources to your care.

Although most employees are honest and hardworking, fraud and other misconduct still occur, so you must diligently apply preventative measures – often referred to as internal controls – to help safeguard public assets and taxpayers' interests. As a result, all organizations need

internal controls. Every internal control must be based on the specific organization. Some common elements of an internal control plan to protect public resource include the following:

- The segregation of duties performed by employees to ensure no one individual can commit and cover up their own wrongdoing.
- Approval processes for expenditures, with increased oversight for larger expenditures.
- Methods to track and monitor employee time and attendance, including the use of leave time.
- Controls to track the public organization's acquisition and disposition of public assets, such as vehicles, equipment, supplies and petty cash.
- Fraud-reporting mechanisms, including a telephone or email hotline or an independent complaint review process.
- An anti-fraud policy, as well as employee training on the policy and annual reminders to follow the policy.
- A code of conduct with standards related to conflict of interest and other professional standards that align with the public organization's mission.
- Tone at the top: communication from the organization's administration about its commitment to the highest ethical and professional standards.
- Careful vetting of employees – both before and after hiring – to ensure that their background and professional certifications meet the entity's standards and support the entity's mission.

Further, you should determine whether the board has an internal audit committee to check and verify expenses. If not, advocate for the creation of one. The board needs to set the "tone at the top," and communicate that the public organization has zero tolerance for fraud and other inappropriate activity. An ethical work environment with internal controls is essential to the proper use of public resources.

Ask:

- What fraud risks exist in the public organization your board oversees?
- What types of internal controls are in place to properly monitor the use of public resources?
- Does the public organization or your board perform compliance reviews or audits?
- Does your public organization have an anti-fraud program that includes training, policies, new-hire background checks and a fraud hotline or other fraud-reporting mechanisms?

*Report suspected fraud, waste or other misuse of public funds by calling the Office's confidential hotline: (800) 322-1323.
Or email the Office at IGO-FightFraud@state.ma.us.
All reports are confidential.*

Conclusion

This Office would like to thank the Office of the Attorney General, the Secretary of the Commonwealth and the State Ethics Commission for their assistance in creating this guide.

To learn more about fulfilling your role as a board member, we hope you will attend the Office's complimentary class, *Are You a Member of a Public Board or Commission? Know Your Responsibilities*. This free class is offered through the Office's Massachusetts Certified Public Purchasing Official ("MCPPO") program. For information on dates for this course, please see the Office's website at www.mass.gov/ig.

If you would like to learn even more about protecting your public organization and its limited public resources, the Office's MCPPO program offers a wide range of training – from public construction to contract administration to fraud prevention. Please explore the MCPPO's classes at www.mass.gov/ig.

Thank you for your service and best of luck in your role as a public board member!

Appendix A: Sources of Advice and Assistance

Office of the Attorney General

The Office of the Attorney General interprets and enforces the open meeting law.

Office of the Attorney General

Division of Open Government
One Ashburton Place
Boston, MA 02108
Telephone: 617-963-2540
Email: openmeeting@state.ma.us
Website: www.mass.gov/ago

Office of the Comptroller

The Office of the Comptroller is responsible for developing internal control guidelines for Commonwealth departments, including state agencies and quasi-state agencies.

Office of the Comptroller

One Ashburton Place, 9th Floor
Boston, MA 02108
Telephone: 617-727-9140
Email: comptroller.info@state.ma.us
Website: www.mass.gov/comptroller

Office of the Inspector General

The Office of the Inspector General is an independent agency that prevents and detects the misuse of public funds and public property, conducts confidential investigations, improves transparency in government, helps government run more effectively and educates government employees and the public.

Office of the Inspector General

One Ashburton Place, Room 1311
Boston, MA 02108
Telephone: 617-727-9140
Email: IGO-FightFraud@massmail.state.ma.us
Website: www.mass.gov/ig

Secretary of the Commonwealth

The Secretary of the Commonwealth administers the public records law.

Secretary of the Commonwealth

Public Records Division
One Ashburton Place, Room 1719
Boston, MA 02108
Telephone: 617-727-2832
Email: pre@sec.state.ma.us
Website: www.sec.state.ma.us

State Ethics Commission

The State Ethics Commission administers and enforces financial disclosure and conflict-of-interest law. It also renders written advisory opinions upon request.

State Ethics Commission

One Ashburton Place, Room 619
Boston, MA 02108
Telephone: 617-371-9500
Website: www.mass.gov/ethics

Appendix B: Reasons for Entering Executive Session

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. The open meeting law, G.L. c. 30A, § 21, sets out ten permissible reasons for entering executive session:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual;
2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
 - (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
 - (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided;

in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to G.L. c. 164, § 1F.

ATTACHMENT C

Subject: City of Boston Public Records Office City Public Records Request :: R000876-102720

Body:



BOSTON PUBLIC SCHOOLS
OFFICE OF LEGAL ADVISOR
 Martin J. Walsh, Mayor

11/05/2020

RE: PUBLIC RECORDS REQUEST of October 22, 2020., Reference # R000876-102720

Dear James:

The Boston Public Schools (BPS) submits this response to your request for public records. A response to a public records request must be provided within ten (10) business days from the business day a written request was received. G. L. c. 66, § 10 (a); 950 CMR 32.06(2)(b). This response applies only to records that exist and are in the custody of the BPS. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you stated:

Under the state's public records law and the state's open meeting law, I am seeking copies of all cellular telephone text messages and emails related to BPS issues that were sent and received by each Boston School Committee member during their meeting that began on Oct. 21 and that ended on Oct. 22. This request applies to all members who sat on the committee for the Oct. 21 meeting, including then-Chair Michael Loconto.

It is my understanding you sent your request to the BPS Press Office. Please be advised you may also file a public records request online at the City of Boston's public records request portal:

[https://bostonma.govqa.us/WEBAPP/_rs/\(S\(nbt14nncz15or4qiperko0go\)\)/support/home.aspx](https://bostonma.govqa.us/WEBAPP/_rs/(S(nbt14nncz15or4qiperko0go))/support/home.aspx)

Responsive records are available to you via the Public Records Center. Click the link below to login to the Records Center and retrieve the requested records.

City Public Records Request - R000876-102720

Text Messages

With respect to text messages, it is important to note that none of the members possess a mobile phone that is owned by BPS or the City of Boston. Each member was contacted and asked to provide text message records from the respective personal devices that are responsive to your request.

While no portions of texts were redacted based on statutory exemptions to the public records law, BPS did omit portions deemed not "related to BPS issues."

Emails

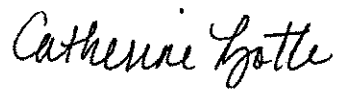
Each member of the Boston School Committee is provided with an email address. To comply with this request, the BPS conducted a search of its email system for the dates and times of the meeting. No portions of these records were redacted.

Conclusion

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth, G.L. c. 66, § 10A (c); G.L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

11/5/20, 5:47 PM

Sincerely,

A handwritten signature in black ink that reads "Catherine Lytle". The signature is written in a cursive, flowing style.

Legal Advisor
Boston Public Schools

(Text messages presented in italics)

Transcription of Text Messages Responsive to Public Records Request (R000876-102720)

Wednesday, October 21, 2020

5:46 p.m.

"SA" and Lorna Rivera (LR)

SA - Lorna, as a member of the Exam School Working Group, thanks for your support. Mil gracias licenciada.

LR - Your efforts made this possible! Mil gracias!

SA - A la orden siempre, Lorna.

LR - Igualmente! (emoji smiley face)

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

AOD - Sure! Hi by law Chair sets agenda and we can't vote on anything Superintendent hasn't had a chance to respond to. He suggest talking to ML and asking him to add to the agenda for next time. We have 170 people speaking tonight so honestly this is probably not the best time to do it even if we could.

LR - Ok wow 170!?! I don't know if I will be able to stay awake. I am too old for this job.

LR - Hi I calculated 170 people *3=510/60 min=8.5 hours. Is this for real? Can't we end at a certain time? Are we allowed to take breaks? I am sorry to complain.

AOD - Yup it's real. 2 min each but will be a very long mtg

AOD - I think take breaks as you need them.

AOD - Best sc meeting ever I am trying not to cry

LR - Me too!

LR - Why can't we get interpretation/translation right? Why does language access have to be so hard?

AOD - When I was on the meeting that explained the proposed policy people got to choose to go into a room to get the whole meeting translated - at least that is how I understood it

LR - Should I ask Dr. C what the heck?

AOD - Sure you can text her.

[time?]

Lorna Rivera (LR) and Brenda Cassellius (BC)

(Text messages presented in italics)

LR - Hi why is interpretation a continuing problem for some of our communities? I hope we can improve.

BC - We had Cantonese and I just asked Monica. This is the purview out the Committee. I suggested to Monica that if we have over a certain number of participants that we automatically default to all 10 languages but I think to provide it for SC it requires them to request it. Maybe bring it up to Mike.

BC - I can change for my team though!

LR - I will. I know there is so much going on. I really do appreciate your hardwork!

BC - [screenshot of Gchat from staff member that reads, "I believe SC only requests interpreters for public comment based on who signs up for public comment. It would be good to revisit that decision."]

LR - Thanks!

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

[time?]

AOD - I still stand by my statement.

LR - I said BPS students should get preference and stand by this.

AOD - Oh then it was both of us!

AOD - What did I just miss? Was that ML saying Shannana and booboo??? My ADD is killing me here!

LR - I think he was making fun of the Chinese names! Hot mic!!!

AOD - That's what I thought. Omfg he's gonna get killed someone is going to go back and capture that

LR - I almost laughed out loud. Getting giddy here!

Someone already captured Brenda on cell in twitter (?)!

AOD - I've been getting some funny tweets tonight it's hard not to smile or laugh.

Yikes.

LR -Dios mia!!

AOD - No comment

LR - People tweeting about loconto hot mic!!

Anissa said WTF!

AOD- Oh no! It's gonna be ugly

(Text messages presented in italics)

LR - Someone texted me Loconto should resign, but I don't have them in my contacts

AOD - Oh boy How/where do I look on Twitter - sorry I'm old I'm not good at twitter

LR - Send me your handle and I will forward some

Or look up Anissa tweets

AOD - Alexoliver 33

Do we acknowledge the apology? What do we do??

LR - Did you see some of the tweets? I feel bad for loconto. Is he going to resign??

AOD - I feel bad too because he really was the person who pushed this forward with the Mayor

Idk if he will do it or not

AOD - I am not going to interrupt (?) him! Let him have his time. He needs it.

LR - Trying to redeem himself - [winking emoji]

Good night!

AOD - Good night.

LR - Good morning, actually!

Wednesday, October 21, 2020

10:34 p.m.

Lorna Rivera (LR) and Michael Loconto (ML)

LR - Hi can you tell me how many more people left to testify? I couldn't find the spreadsheet in google

ML - 77 to go, many falling off

[time?]

LR - Hi can you tell me if angie camacho is on the list and what number?

ML - yes she is #168, we are on 145

LR - Thanks.

[time?]

Michael Loconto (ML) and Alexandra Oliver-Davila (AOD)

ML- Do I need to worry about my non-sequitur earlier? I feel awful, I've been getting texts about it from Michael and Brenda.

(Text messages presented in italics)

AOD - I heard [end] and not whole thing. I think Anissa commented on it. I think be prepared just in case I'm sorry this all stinks!

ML - Ugh

Jeez

On twitter?

AOD - I know.

I'm sorry.

Yes.

ML - Oh God no

I don't know what to do

AOD - I think just again apologize. What does MO suggest?

ML - Asking

AOD - I think that was good

ML - Jesus I am mortified

AOD - I know I'm very sorry

Do you want me to acknowledge your apology and say thanks or just leave it alone?

ML - I don't know

Wednesday, October 21, 2020

6:00 p.m.

"Marty" [Boston Mayor Marty Walsh] (MW) and Jeri Robinson (JR)

MW - Good luck

JR - Glad we're remote. Lots of passion. Wish there was as much passion and concern for the rest of our 52,000 students and 122 schools and not just the select three.

Marty - I agree with you.

[time?]

Jeri Robinson (JR) and Alexandra Oliver-Davila (AOD)

JR - Yes

6:27 p.m.

(Text messages presented in italics)

AOD – What a great (unclear) totally trying not to cry, best meeting ever.

JR – So true. So proud of the Mayor

AOD – Me too, but we need to push because he said it was one year in his comments – we should call him and thank him so he knows where we stand.

JR – True. I did text and thank him at the conclusion of his remarks.

AOD – That's great.

6:53 p.m.

Sonia Barney Gomez (SBG), Josette Williams (JR) and Jeri Robinson (JR)

SBG – Jeri how excited I'm for you. This is like doing the impossible. Waiting for the vote.

JR – Yes. Amazing what can happen during a pandemic. There are over 800 folks watching. Wish there was as much concern about all of our kids and schools.

SBG – Yes. Baby steps. I believe this is historic. I'm hoping community partners come in to support students to make sure our students succeed

JW – I'm holding on. Either way, folks are really showing their true colors!!! This city is never ready for real change but time has come.

SBG – I just told Monica we need to start scheduling our community meetings to make sure we have parent voices to [unclear] the changes permanent for next year.

10:05 p.m.

Jeri Robinson (JR) and Michael Loconto (ML)

JR – what number are we up to?

ML – 84. People starting to drop off now.

11:00 p.m.

“SA” and Jeri Robinson (JR)

SA – How are you holding out Jeri. Looking pretty tired...

JR – I am. We still have about 70 speakers.

SA – that's 2 plus hours by my reckoning.

JR – Tulane [sic?] without our vote, so about 2 am.

JR – Some folks are dropping off, let's hope more do.

(Text messages presented in italics)

Wednesday, October 21, 2020

[time?]

Alexandra Oliver-Davila (AOD) and Brenda Cassellius (BC)

AOD - *Best meeting ever. Trying not to cry. What a great letter.*

BC - *Yup. I asked him to write it and I asked Tanisha to read it. Powerful.*

AOD - *Great idea!*

6:28 p.m.

BC - *Speak it.*

AOD - *Amen!*

Wednesday, October 21, 2020

5:27 p.m.

Michael O'Neill (MON) and Michael Loconto (ML)

MON - *You should mention Khymani was on the national student panel last week.*

ML - *[thumbs up emoji]*

MON - *He was excellent and made us BPS Proud.*

ML - *[thumbs up emoji]*

[time?]

MON - *What the heck was your last comment/your mic was on. Hope you were talking to your daughter about a bedtime book. Sha boo. Boo boo boo?*

ML - *Geez I'm sorry I was talking to my wife about a kid's book*

MON - *Thought so, but it came out real weird!*

ML - *Should I address?*

MON - *You did it right.*

ML - *I'm mortified if someone took it another way, Brenda mentioned it too and said someone else texted her about it*

MON - *It was right after Liz read a bunch of names, could have been interpreted that you were commenting on the names. I knew you would never do that, assumed one of your daughters was saying good night. Glad you cleared it up right away. Don't worry about it any more.*

(Text messages presented in italics)

MON - *How far along are we?*

ML - *Ok thanks. I realized that after I got the text. I feel awful.*

ML - *We are on 159. 20 to go.*

MON - *You corrected very quickly. Regular watchers know your daughters always say goodnight to you.*

ML - *Anissa tweeting about it. I don't know what to do*

ML - *Am I ok? I hope I put that to bed.*

MON - *Please put me last, before VC and you, but after the other members.*

ML - *Of course, assumed as much.*

MON - *Let's vote!*

6 43 p.m.

Michael O'Neill (MON) and Khymani James (KJ) (student member)

KJ - *Are you comfortable on the logistics behind transferring elementary school grades to letter grades? I'm confused on that part and don't want to ask publicly if I can get a behind the scenes answer.*

MON - *I suggested last week and will suggest again tonight they bring in a 3rd party to oversee/work with BPS on the process. They do have a method to convert BPS grades to a 12 point system, based on the specific 1-4 grades in certain subjects. They have had to do it for years as GPA is already 50% of the criteria. But I would prefer independent oversight to build trust.*

KJ - *Ahhh I see*

Thursday, October 22, 2020

12 29 a.m.

MON - *Well done. Very well done.*

KJ - *Thank you, Mr. O'Neill.*

Wednesday, October 21, 2020

Michael O'Neill (MON) and Brenda Cassellius (BC)

11 31 p.m.

BC - *Yikes.*

Thursday, October 22, 2020

1 47 a.m.

(Text messages presented in italics)

BC - Remember I talked about that in my interview.

MON - (thumbs up sign)

BC - Thank you.

MON - (thumbs up sign)

MON - Congrats.

Wednesday, October 21, 2020

6:19 p.m.

Khymani James (KJ) and Alexandra Oliver-Davila (AOD)

AOD - Great points. Thank you for message to fellow students. Sooo important!

KJ - Thank you, Ms. Oliver-Davila!!!

AOD - You are welcome! Keep asking your great questions!

KJ - Quick question. Is what is being voted on tonight called a "proposal" or a "policy"

AOD - proposed policy

KJ - Thank you!

AOD - Sure!

11:19 p.m.

KJ - Wow -I had to turn my camera off because of my facials.

AOD - That's a great strategy!

AOD - You are a trooper staying late!

KJ - Thanks Vice Chair. Trying my best to pull through!

AOD - Also you can leave! Everyone will understand because you have school tomorrow - past BSAC members have left around 9 pm

KJ - Yes, I am aware! Thank you - I told myself at the beginning of the year that I would attend all hours of the meeting since they're so important and only every other week.

AOD - You are a trooper! Hope your teachers give you a break on Thursday mornings

KJ - Me too! [smiling emoji]

ATTACHMENT D

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

Copies of all data sets, spreadsheets, formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Superintendent's Exam School Working Group to identify the number of school aged children in each Boston ZIP code, the median income of each Boston ZIP code, and the allocation of exam school seats per Boston ZIP code, including copies of all simulations run by the Exam School Working Group, the Superintendent's Office, the Boston Public School department, and the Boston School Committee, and all electronic communication to and from all members of the Exam School Working Group, the Superintendent, the Boston School Committee, the Mayor's Office, the Boston City Council, and Boston Public Schools offices, regarding the work of the Exam School Working group, its data and findings, and the simulations.

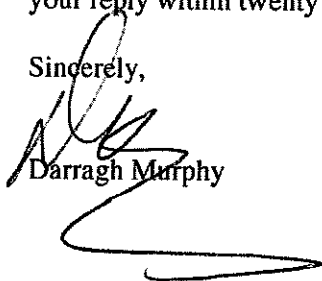
Please limit your search of the above item(s) to the period from January 1, 2020 to November 19, 2020.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,



Darragh Murphy

ATTACHMENT E

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

Copies of all formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Boston Public Schools to convert, analyze, and standardize Grade Point Averages (GPA's) for all 6th grade applicants to Boston Latin Academy, the O'Bryant School, and Boston Latin School.

Please limit your search of the above item(s) to the period from January 1, 2017 to November 19, 2020.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,

Darragh Murphy

ATTACHMENT F

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

Copies of all electronic communications, including emails, text messages, voicemails, social media messages, tweets, etc, to and from Superintendent Cassellius, her staff and/or assistants, and all members of the Boston School Committee, and all members of the Exam School Working Group regarding the Exam School Working Group, including electronic attachments to all electronic communications.

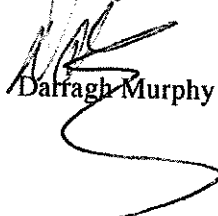
Please limit your search of the above item(s) to the period from January 1, 2018 to November 19, 2020.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,



Darragh Murphy

ATTACHMENT G

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

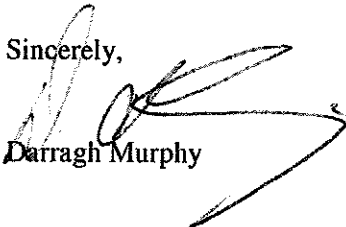
ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam school to which each applicant was invited to attend, the sending school name, and the ZIP code of each applicant.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,


Darragh Murphy

ATTACHMENT H

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students who did NOT receive invitations for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam school to which each applicant was NOT invited to attend, the sending school name, and the ZIP code of each applicant.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,


Darragh Murphy

ATTACHMENT I

Darragh Murphy
242 Neponset Avenue
Dorchester, Massachusetts 02122

November 19, 2020

Boston Public Schools
2300 Washington Street
Boston, Massachusetts 02119

Re: Freedom of Information Request

Dear Sir or Madam:

The purpose of this letter is to request information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agency or advise me of the other agencies which might have this information.

Please provide me with a copy of the following items:

Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with sending school name and ZIP code of each applicant.

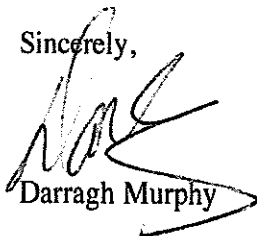
Please limit your search of the above item(s) to the period from September 01, 2019 to June 30, 2020.

If any part or all of the materials are withheld under an FOIA exemption, please provide a list of the information withheld and mark any deleted sections. Please list the specific exemptions that form the basis for any deletion from a document or the complete withholding of a document.

My e-mail address is darraghmurphy@comcast.net.

As provided for by section 552(a)(6)(A)(i) of the Freedom of Information Act, please provide your reply within twenty (20) business days. Thank you for your prompt attention to this matter.

Sincerely,



Darragh Murphy

ATTACHMENT J



BOSTON PUBLIC SCHOOLS
OFFICE OF LEGAL ADVISOR
Martin J. Walsh, Mayor

1/13/21

RE: PUBLIC RECORDS REQUEST of November 19, 2020, Reference #s:

#R001025-111920
#R001024-111920
#R001023-111920
#R001021-111920
#R001020-111920
#R001019-111920

Dear Ms. Murphy:

The City of Boston (City) has received your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Below, please find your specific requests and BPS's responses in blue.

#R001025-111920:

Copies of all data sets, spreadsheets, formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Superintendent's Exam School Working Group to identify the number of school aged children in each Boston ZIP code, the median income of each Boston ZIP code, and the allocation of exam school seats per Boston ZIP code, including copies of all simulations run by the Exam School Working Group, the Superintendent's Office, the Boston Public School department, and the Boston School Committee, and all electronic communication to and from all members of the Exam School Working Group, the Superintendent, the Boston School Committee, the Mayor's Office, the Boston City Council, and Boston Public Schools offices, regarding the work of the Exam School Working group, its data and findings, and the simulations. Please

limit your search of the above item(s) to the period from January 1, 2020 to November 19, 2020.

Records responsive to Request #R001025-111920 may be found [here](#), [here](#), and [here](#).

#R001024-111920:

Copies of all formulas, algorithms, calculations, instructions, rubrics, and guidelines used by the Boston Public Schools to convert, analyze, and standardize Grade Point Averages (GPA's) for all 6th grade applicants to Boston Latin Academy, the O'Bryant School, and Boston Latin School. Please limit your search of the above item(s) to the period from January 1, 2017 to November 19, 2020.

Records responsive to Request # R001024-111920 may be found [here](#).

#R001023-111920:

Copies of all electronic communications, including emails, text messages, voicemails, social media messages, tweets, etc, to and from Superintendent Cassellius, her staff and/or assistants, and all members of the Boston School Committee, and all members of the Exam School Working Group regarding the Exam School Working Group, including electronic attachments to all electronic communications. Please limit your search of the above item(s) to the period from January 1, 2018 to November 19, 2020.

Records responsive to Request # R001023-111920 may be found [here](#).

#R001021-111920:

ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students who did NOT receive invitations for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam school to which each applicant was NOT invited to attend, the sending school name, and the ZIP code of each applicant.

#R001020-111920:

ISEE exam scores and Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with the name of the exam

school to which each applicant was invited to attend, the sending school name, and the ZIP code of each applicant.

#R001019-111920:

Grade Point Averages (GPA's) for school year 2019/2020 of all 6th grade students admitted for School Year 2020/2021 to Boston Latin Academy, the O'Bryant School, and Boston Latin School, de-identified, with sending school name and ZIP code of each applicant.

Records responsive to requests #R001019, 1020, and 1021 may be found [here](#).

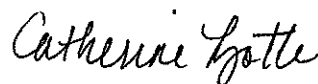
Redactions

Please note that student record information and personal emails, phone numbers, and addresses have been redacted.

Conclusion

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G.L. c. 66, § 10A (c); G.L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,



Catherine Lizotte
Legal Advisor
(617) 635-9250

ATTACHMENT K

7/5/2021

Google Vault - [GovQA] New Assignment - R000275-021221

[GovQA] New Assignment - R000275-021221

email: "CityofBoston@govqa.us City of Boston"

Friday, February 12, 2021 at 1:54:07 PM Eastern Standard Time

To: email: "nchase@bostonpublicschools.org nchase@bostonpublicschools.org"

i A request has been assigned to you

City Public Records Request / R000275-021221

Request Information

Assigned Nadra Chase

Staff:

Status: Assigned

Create 2/12/2021 12:48:17 PM

Date:

Requester: Darragh Murphy ,

Type of [typeinfo]

Request:

Record(s) 1. List of students who are in the applicant pool for the three exam schools (Boston Latin
Requested: School, Boston Latin Academy, John D O'Bryant School) for the school year 2021/2022,
Case / de-identified and sorted by zip code of residence. 2. List of students who applied for
Incident inclusion in the applicant pool to the three exam schools (Boston Latin School, Boston Latin
Number Academy, John D O'Bryant School) for the school year 2021/2022, de-identified and sorted
Date or by zip code of residence.
Date [CASE_NUMBER]
Range of [DATE_RANGE]
Record(s) [LOC_ADDRESS]
Location /
Address of
Incident

To access the request, please access the [Boston Public Records Center](#)

This is an auto-generated email and has originated from an unmonitored email account.
Please DO NOT REPLY.

GovQA

7/5/2021

Google Vault - [GovQA] New Assignment - R000275-021221

ATTACHMENT L

7/5/2021

Boston Public Schools Mail - [GovQA] New Assignment - R000337-022321



Lizotte, Catherine <clizotte@bostonpublicschools.org>

[GovQA] New Assignment - R000337-022321

1 message

City of Boston <CityofBoston@govqa.us>

Wed, Feb 24, 2021 at 7:33 PM

To: "clizotte@bostonpublicschools.org" <clizotte@bostonpublicschools.org>

A request has been assigned to you

City Public Records Request / R000337-022321**Request Information**

Assigned Catherine Lizotte

Staff:

Status: Assigned

Create 2/23/2021 6:00:53 AM

Date:

Requester: Darragh Murphy ,

Type of [typeinfo]

Request:

Record(s) 1. Copies of ALL electronic text messages, instant messages, and any other form of
Requested: electronic communication sent and/or received, including any and all "group" messages
Case / sent and/or received by more than one of the following listed individuals, during the
Incident School Committee meeting scheduled for October 21, 2020, from the time the meeting
Number started on 10/21/2020 until it was officially adjourned on Thursday, October 22, 2020,
Date or between and among each and all of the following: Superintendent Brenda Cassellius
Date SC Chair Michael Loconto SC Members: Lorna Rivera Jeri Robinson Michael O'Neil
Range of Alexandra Oliver-Davila Hardin LK Coleman Quoc Tran 2. List of students who currently
Record(s) comprise the applicant pool for incoming school year 2021/2022 for the three exam
Location / schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School), de-
Address of identified and sorted by GPA. 3. All of the Grade Point Averages sorted by Zip Code of
Incident the students, de-identified, who currently comprise the applicant pool for incoming
school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin
Academy, John D O'Bryant School). Please provide the list by zip code. For example:
Zip Code 02122: List all the GPA's of the de-identified students currently comprising the
applicant pool who reside in Zip Code 02122. Zip Code 02126: List all the GPA's of the
de-identified students currently comprising the applicant pool who reside in Zip Code
02126. And so on until every Zip Code in the City of Boston is included in the response,
including Zip Codes for which there are no applicants in the pool and Zip Codes in
which there are fewer than 10. 4. Written transcript of the entire School Committee
meeting held on October 21, 2020 which adjourned on Thursday, October 22, 2020. 5.
Written transcript of the entire School Committee meeting held on October 8, 2020.

7/5/2021

Boston Public Schools Mail - [GovQA] New Assignment - R000337-022321

[CASE_NUMBER]

[DATE_RANGE]

[LOC_ADDRESS]

To access the request, please access the Boston Public Records Center

This is an auto-generated email and has originated from an unmonitored email account. Please DO NOT REPLY.

GovQA

ATTACHMENT M



BOSTON PUBLIC SCHOOLS
OFFICE OF LEGAL ADVISOR
Martin J. Walsh, Mayor

3/9/21

RE: PUBLIC RECORDS REQUEST of February 23, 2021

Reference #:

#R000337-022321

Dear Ms. Murphy:

The City of Boston (City) has received your request for public records. This response applies only to records that exist and are in the custody of the City. *See A Guide to the Massachusetts Public Records Law*, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Below, please find your specific requests and BPS's responses in blue.

1. *Copies of ALL electronic text messages, instant messages, and any other form of electronic communication sent and/or received, including any and all "group" messages sent and/or received by more than one of the following listed individuals, during the School Committee meeting scheduled for October 21, 2020, from the time the meeting started on 10/21/2020 until it was officially adjourned on Thursday, October 22, 2020, between and among each and all of the following: Superintendent Brenda Cassellius SC Chair Michael Loconto SC Members: Lorna Rivera Jeri Robinson Michael O'Neil Alexandra Oliver-Davila Hardin LK Coleman Quoc Tran.*

Records responsive to request 1 may be found [here](#).

2. *List of students who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School), de-identified and sorted by GPA.*

There are no records responsive to request 2.

3. *All of the Grade Point Averages sorted by Zip Code of the students, de-identified, who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School). Please provide the list by zip code. For example: Zip Code 02122: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02122. Zip Code 02126: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02126. And so on until every Zip Code in the City of Boston is included in the response, including Zip Codes for which there are no applicants in the pool and Zip Codes in which there are fewer than 10.*

There are no records responsive to request 3.

4. *Written transcript of the entire School Committee meeting held on October 21, 2020 which adjourned on Thursday, October 22, 2020.*

There are no records responsive to request 4.

5. *Written transcript of the entire School Committee meeting held on October 8, 2020.*

There are no records responsive to request 5.

Conclusion

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G.L. c. 66, § 10A (c); G.L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,



Catherine Lizotte
Legal Advisor
(617) 635-9250

ATTACHMENT N

(Text messages presented in italics)

Transcription of Text Messages Responsive to Public Records Request (R000876-102720)

Wednesday, October 21, 2020

5:46 p.m.

"SA" and Lorna Rivera (LR)

SA - Lorna, as a member of the Exam School Working Group, thanks for your support. *Mil gracias licenciada.*

LR - Your efforts made this possible! *Mil gracias!*

SA - A la orden siempre, Lorna.

LR - *Iguamente! (emoji smiley face)*

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

AOD - Sure! Hi by law Chair sets agenda and we can't vote on anything Superintendent hasn't had a chance to respond to. He suggest talking to ML and asking him to add to the agenda for next time. We have 170 people speaking tonight so honestly this is probably not the best time to do it even if we could.

LR - Ok wow 170!?! I don't know if I will be able to stay awake. I am too old for this job.

LR - Hi I calculated 170 people *3=510/60 min=8.5 hours. Is this for real? Can't we end at a certain time? Are we allowed to take breaks? I am sorry to complain.

AOD - Yup it's real. 2 min each but will be a very long mtg

AOD - I think take breaks as you need them.

AOD - Best sc meeting ever I am trying not to cry

LR - Me too!

LR - Why can't we get interpretation/translation right? Why does language access have to be so hard?

AOD - When I was on the meeting that explained the proposed policy people got to choose to go into a room to get the whole meeting translated - at least that is how I understood it

LR - Should I ask Dr. C what the heck?

AOD - Sure you can text her.

[time?]

Lorna Rivera (LR) and Brenda Cassellius (BC)

(Text messages presented in italics)

LR - Hi why is interpretation a continuing problem for some of our communities? I hope we can improve.

BC - We had Cantonese and I just asked Monica. This is the purview out the Committee. I suggested to Monica that if we have over a certain number of participants that we automatically default to all 10 languages but I think to provide it for SC it requires them to request it. Maybe bring it up to Mike.

BC - I can change for my team though!

LR - I will. I know there is so much going on. I really do appreciate your hardwork!

BC - [screenshot of Gchat from staff member that reads, "I believe SC only requests interpreters for public comment based on who signs up for public comment. It would be good to revisit that decision."]

LR - Thanks!

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

[time?]

AOD - I still stand by my statement.

LR - I said BPS students should get preference and stand by this.

AOD - Oh then it was both of us!

AOD - What did I just miss? Was that ML saying Shannana and booboo??? My ADD is killing me here!

LR - I think he was making fun of the Chinese names! Hot mic!!!

AOD - That's what I thought. Omfg he's gonna get killed someone is going to go back and capture that

LR - I almost laughed out loud. Getting giddy here!

Someone already captured Brenda on cell in twitter (?)!

AOD - I've been getting some funny tweets tonight it's hard not to smile or laugh.

Yikes.

LR -Dios mia!!

AOD - No comment

LR - People tweeting about loconto hot mic!!

Anissa said WTF!

AOD- Oh no! It's gonna be ugly

(Text messages presented in italics)

LR - Someone texted me Loconto should resign, but I don't have them in my contacts

AOD - Oh boy How/where do I look on Twitter - sorry I'm old I'm not good at twitter

LR - Send me your handle and I will forward some

Or look up Anissa tweets

AOD - Alexoliver 33

Do we acknowledge the apology? What do we do??

LR - Did you see some of the tweets? I feel bad for loconto. Is he going to resign??

AOD - I feel bad too because he really was the person who pushed this forward with the Mayor

Idk if he will do it or not

AOD - I am not going to interrupt (?) him! Let him have his time. He needs it.

LR - Trying to redeem himself - [winking emoji]

Good night!

AOD - Good night.

LR - Good morning, actually!

Wednesday, October 21, 2020

10:34 p.m.

Lorna Rivera (LR) and Michael Loconto (ML)

LR - Hi can you tell me how many more people left to testify? I couldn't find the spreadsheet in google

ML - 77 to go, many falling off

[time?]

LR - Hi can you tell me if angie camacho is on the list and what number?

ML - yes she is #168, we are on 145

LR - Thanks.

[time?]

Michael Loconto (ML) and Alexandra Oliver-Davila (AOD)

ML- Do I need to worry about my non-sequitur earlier? I feel awful, I've been getting texts about it from Michael and Brenda.

(Text messages presented in italics)

AOD - *I heard [end] and not whole thing. I think Anissa commented on it. I think be prepared just in case I'm sorry this all stinks!*

ML - *Ugh*

Jeez

On twitter?

AOD - *I know.*

I'm sorry.

Yes.

ML - *Oh God no*

I don't know what to do

AOD - *I think just again apologize. What does MO suggest?*

ML - *Asking*

AOD - *I think that was good*

ML - *Jesus I am mortified*

AOD - *I know I'm very sorry*

Do you want me to acknowledge your apology and say thanks or just leave it alone?

ML - *I don't know*

Wednesday, October 21, 2020

6:00 p.m.

"Marty" [Boston Mayor Marty Walsh] (MW) and Jeri Robinson (JR)

MW - *Good luck*

JR - *Glad we're remote. Lots of passion. Wish there was as much passion and concern for the rest of our 52,000 students and 122 schools and not just the select three.*

Marty - *I agree with you.*

[time?]

Jeri Robinson (JR) and Alexandra Oliver-Davila (AOD)

JR - *Yes*

6:27 p.m.

(Text messages presented in italics)

AOD – *What a great (unclear) totally trying not to cry, best meeting ever.*

JR – *So true. So proud of the Mayor*

AOD – *Me too, but we need to push because he said it was one year in his comments – we should call him and thank him so he knows where we stand.*

JR – *True. I did text and thank him at the conclusion of his remarks.*

AOD – *That's great.*

6:53 p.m.

Sonia Barney Gomez (SBG), Josette Williams (JR) and Jeri Robinson (JR)

SBG – *Jeri how excited I'm for you. This is like doing the impossible. Waiting for the vote.*

JR – *Yes. Amazing what can happen during a pandemic. There are over 800 folks watching. Wish there was as much concern about all of our kids and schools.*

SBG – *Yes. Baby steps. I believe this is historic. I'm hoping community partners come in to support students to make sure our students succeed*

JW – *I'm holding on. Either way, folks are really showing their true colors!!! This city is never ready for real change but time has come.*

SBG – *I just told Monica we need to start scheduling our community meetings to make sure we have parent voices to [unclear] the changes permanent for next year.*

10:05 p.m.

Jeri Robinson (JR) and Michael Loconto (ML)

JR – *what number are we up to?*

ML – *84. People starting to drop off now.*

11:00 p.m.

"SA" and Jeri Robinson (JR)

SA – *How are you holding out Jeri. Looking pretty tired...*

JR – *I am. We still have about 70 speakers.*

SA – *that's 2 plus hours by my reckoning.*

JR – *Tulane [sic?] without our vote, so about 2 am.*

JR – *Some folks are dropping off, let's hope more do.*

(Text messages presented in italics)

Wednesday, October 21, 2020

[time?]

Alexandra Oliver-Davila (AOD) and Brenda Cassellius (BC)

AOD - Best meeting ever. Trying not to cry. What a great letter.

BC - Yup. I asked him to write it and I asked Tanisha to read it. Powerful.

AOD - Great idea!

6:28 p.m.

BC - Speak it.

AOD - Amen!

Wednesday, October 21, 2020

5:27 p.m.

Michael O'Neill (MON) and Michael Loconto (ML)

MON - You should mention Khymani was on the national student panel last week.

ML - [thumbs up emoji]

MON - He was excellent and made us BPS Proud.

ML - [thumbs up emoji]

[time?]

MON - What the heck was your last comment/your mic was on. Hope you were talking to your daughter about a bedtime book. Sha boo. Boo boo boo?

ML - Geez I'm sorry I was talking to my wife about a kid's book

MON - Thought so, but it came out real weird!

ML - Should I address?

MON - You did it right.

ML - I'm mortified if someone took it another way, Brenda mentioned it too and said someone else texted her about it

MON - It was right after Liz read a bunch of names, could have been interpreted that you were commenting on the names. I knew you would never do that, assumed one of your daughters was saying good night. Glad you cleared it up right away. Don't worry about it any more.

(Text messages presented in italics)

MON - *How far along are we?*

ML - *Ok thanks. I realized that after I got the text. I feel awful.*

ML - *We are on 159. 20 to go.*

MON - *You corrected very quickly. Regular watchers know your daughters always say goodnight to you.*

ML - *Anissa tweeting about it. I don't know what to do*

ML - *Am I ok? I hope I put that to bed.*

MON - *Please put me last, before VC and you, but after the other members.*

ML - *Of course, assumed as much.*

MON - *Let's vote!*

6 43 p.m.

Michael O'Neill (MON) and Khymani James (KJ) (student member)

KJ - *Are you comfortable on the logistics behind transferring elementary school grades to letter grades? I'm confused on that part and don't want to ask publicly if I can get a behind the scenes answer.*

MON - *I suggested last week and will suggest again tonight they bring in a 3rd party to oversee/work with BPS on the process. They do have a method to convert BPS grades to a 12 point system, based on the specific 1-4 grades in certain subjects. They have had to do it for years as GPA is already 50% of the criteria. But I would prefer independent oversight to build trust.*

KJ - *Ahhh I see*

Thursday, October 22, 2020

12 29 a.m.

MON - *Well done. Very well done.*

KJ - *Thank you, Mr. O'Neill.*

Wednesday, October 21, 2020

Michael O'Neill (MON) and Brenda Cassellius (BC)

11 31 p.m.

BC - *Yikes.*

Thursday, October 22, 2020

1 47 a.m.

(Text messages presented in italics)

BC - *Remember I talked about that in my interview.*

MON - *(thumbs up sign)*

BC - *Thank you.*

MON - *(thumbs up sign)*

MON - *Congrats.*

Wednesday, October 21, 2020

6:19 p.m.

Khymani James (KJ) and Alexandra Oliver-Davila (AOD)

AOD - *Great points. Thank you for message to fellow students. Sooo important!*

KJ - *Thank you, Ms. Oliver-Davila!!!*

AOD - *You are welcome! Keep asking your great questions!*

KJ - *Quick question. Is what is being voted on tonight called a "proposal" or a "policy"*

AOD - *proposed policy*

KJ - *Thank you!*

AOD - *Sure!*

11:19 p.m.

KJ - *Wow -I had to turn my camera off because of my facials.*

AOD - *That's a great strategy!*

AOD - *You are a trooper staying late!*

KJ - *Thanks Vice Chair. Trying my best to pull through!*

AOD - *Also you can leave! Everyone will understand because you have school tomorrow - past BSAC members have left around 9 pm*

KJ - *Yes, I am aware! Thank you - I told myself at the beginning of the year that I would attend all hours of the meeting since they're so important and only every other week.*

AOD - *You are a trooper! Hope your teachers give you a break on Thursday mornings*

KJ - *Me too! [smiling emoji]*

ATTACHMENT O

Subject: City of Boston Public Records Office City Public Records Request :: R000275-021221
Body:



BOSTON PUBLIC SCHOOLS OFFICE OF LEGAL ADVISOR
Martin J. Walsh, Mayor

03/22/2021

RE: PUBLIC RECORDS REQUEST of February 12, 2021, Reference # R000275-021221

Dear Darragh:

The Boston Public Schools (City) submits this response to your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you stated:

- 1. List of students who are in the applicant pool for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School) for the school year 2021/2022, de-identified and sorted by zip code of residence.*
- 2. List of students who applied for inclusion in the applicant pool to the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School) for the school year 2021/2022, de-identified and sorted by zip code of residence.*

There are no records that exist that are responsive to your request. Please note that the public records law does not require a municipal agency to create a record in response to a request.

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,

Legal Advisor
Boston Public Schools

ATTACHMENT P

Friday, November 20, 2020

Shawn Williams, Director of Public Records
Records Access Officer
City of Boston
1 CITY HALL SQUARE
ROOM 615
BOSTON, MA 02201
617-635-4037
shawn.williams@boston.gov
publicrecords@boston.gov

Dear RCO Williams:

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10). I am requesting that I be provided a copy of each record pertinent to your responses to the inquiries as in the Appendix.

Such requested records include, but are not limited to, information, data, data models, and algorithms from the following Boston Public Schools (BPS) internal departments, e.g., Office of the Superintendent, Office of Data & Accountability, and Office of Exam Schools & AWC.

To expedite the process, specific people from above mentioned departments who may retain our requested records are listed below:

1. Monica Roberts, Chief of Student, Family & Community Advancement
2. Monica Hogan, Interim Executive Director, Office of Data & Accountability at 617-635-9450 (phone) 617-635-941 (fax) rc069@bostonpublicschools.org (e-mail)
3. Maria Vieira, Office of Exam Schools & AWC

I recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request.

The Public Records Law requires you to provide me with a written response within 10 business days. If you cannot comply with my request, you are statutorily required to provide an explanation in writing. Otherwise, we look forward to receiving a written response with our requested record by December 1, 2020.

Regards

Boston Parent Coalition for Academic Excellence

bpcaema@gmail.com

617-903-2468

Appendix

1. In the SY20 Budget (Exhibit A), if there is a "one year only" suspension of the MAP Test, how will the \$364,000 budgeted for the SY20 annual exam school administration be spent? Will that budget line for exam administration move to SY2021? Which office "owns" that number?
2. On October 21, 6:21 PM, Chief Monica Robert's and Monica Hogan of BPS's Office of Accountability and Data cited "simulations run" (sic) regarding how zip code rounds would be allocated (Exhibit B - Slide titled: Misinformation: Limited Access to each exam school, bullet points 2-4), which are the factual studies/statistical tabulations used as the basis to support the BPS School Committee's new exam school policy position ("BPS Simulation Model"). Please provide the input data used in preparing these simulations in an Excel sheet. Please provide an electronic copy of the BPS Simulation Model (eg: Excel, SPSS, etc).
 - a. Please provide 3 years of counts of applicants, invited, and enrolled students for each exam school, grouped by the following data attributes:
 - i. Zip code
 - ii. Race
 - iii. GPA – if simulation GPA approach differs from
 - iv. Applicant exam school preference choice
 - v. Applicant invited school
 - vi. Applicant enrollment

Exhibit C is a template of this requested information.

- b. Please provide the following attributes per zip code:
 - i. Number of school aged children in each zip code
 - ii. Number of children in the 6th, 8th, and 9th grade in each zip code
 - iii. Median income in the each zip code
 - iv. Median income in the each zip code for families with children under the age of 18
- c. Please provide the approach to convert report card into the GPA used in this simulation.

- i. How do letter grades and number grades convert to GPA?
 - ii. Which class names count as ELA? Which class names count as Math?
 - iii. If there are multiple ELA classes, how is a single ELA GPA created (eg: weighted average, simple average, min, max)? If there are multiple math classes, how is a single math GPA created (eg: weighted average, simple average, min, max)?
 - iv. Which grading period is used? If there are multiple grading periods how is a single GPA calculated (eg: weighted average, simple average, min, max, earliest, latest)?
 - v. In response to the discussion that different schools may have different grading standards, please provide the count of students with each calculated GPA, by applicant school and by race for the past 3 years. Exhibit D is a template for providing this requested information.
 - vi. Did this calculation change from the GPA that was previously used in the exam school entrance criteria? If so please provide the above responses for the prior approach, the new approach, and any other approaches that were simulated.
- d. If a student was in the top 20% but placed in a school other than their first choice, will they have an opportunity to be reconsidered for their first choice in the 80% zip code rounds? If so what will happen to that zip code's seat in that 80% round, will it be given to another applicant in the zip code?
- e. How many seats are available per school, and in the first 20% how many of those seats at each school were assigned to students from each zip code in the BPS Simulation Model.
- f. For the 80% allocated by zip code, **before 10 the rounds start**, is there a finite number of allocated seats at each school for each zip code? Or when each student's spot comes up in the zip code rounds, do they get their highest preference from any school with an available seat?
- g. What happens in the zip code rounds for a zip code that has such a small number of school-aged children that it qualifies for under 1 seat?

Exhibit A

Exhibit A

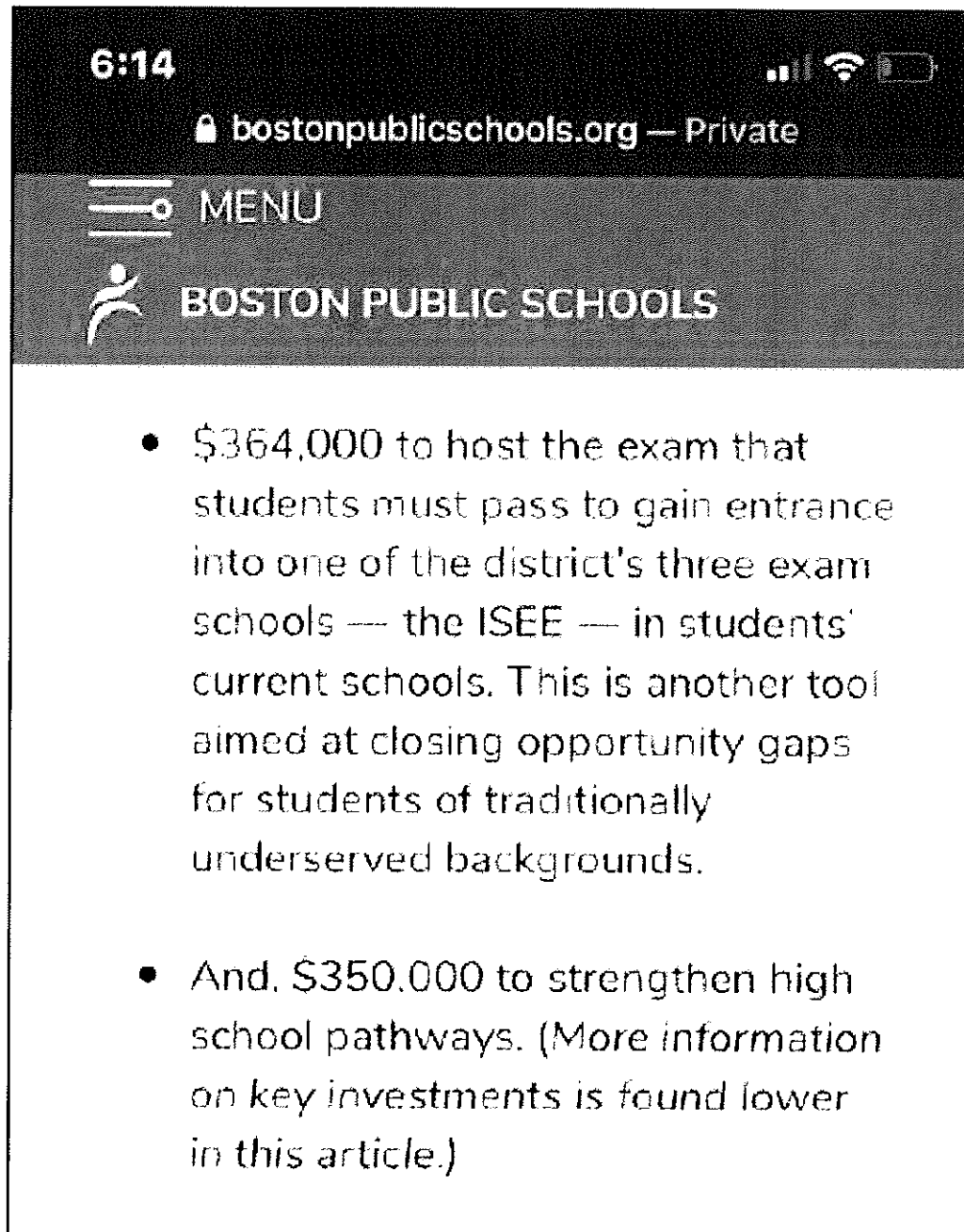


Exhibit B

Misinformation: Limited Access to Each Exam School

Zip codes are not limited to a specific number of seats at each exam school. Seats within the zip code rounds are assigned to students based on the student's preference.

In simulations run, the last seat at BLS was assigned during the 5th or 6th zip code round. Students in the top 50% of each zip code had access to BLS

The last seat at BLA was assigned during the 9th zip code round, meaning 90% of students in each zip code had access to BLA.

In simulations run, more students whose first choice school was BLS had a perfect GPA than seats available at BLS in the top 20%. However, all students with a perfect GPA received an invitation to their first choice school in all simulations run.

Exhibit C

Applicant (Dorm/Identified) Cohort				Applicant Preference (1, 2, 3)			Applicant Invitation (0, 1)			Applicant Enrollment (0, 1)		
Residential	Race	Actual GPA	Calc	B.S	B.A	OB	B.S	B.A	OB	B.S	B.A	OB

2017-18 Applicants: 1000+ High Applicants: 100-150 Accepted: 100-150

Exhibit D

Applicant's current middle school		Applicant (Deidentified) Data		
BPS/Non-BPS	School Name	Race	Actual GPA	BPS GPA Calc.
2017-18 applicants		2018-19 applicants		
		2019-20 applicants		

ATTACHMENT Q



BOSTON PUBLIC SCHOOLS
OFFICE OF LEGAL ADVISOR
Martin J. Walsh, Mayor

January 13, 2021

Boston Parent Coalition for Academic Excellence
bpcaema@gmail.com

Re: November 20, 2020 Public Records Request

Dear Boston Parent Coalition for Academic Excellence:

The Boston Public Schools ("BPS") has received your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. A custodian is not required to create a new record or analysis that does not currently exist. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Below please see your requests and BPS's responses in blue:

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10). I am requesting that I be provided a copy of each record pertinent to your responses to the inquiries as in the Appendix. Such requested records include, but are not limited to, information, data, data models, and algorithms from the following Boston Public Schools (BPS) internal departments, e.g., Office of the Superintendent, Office of Data & Accountability, and Office of Exam Schools & AWC. To expedite the process, specific people from above mentioned departments who may retain our requested records are listed below: 1. Monica Roberts, Chief of Student, Family & Community Advancement 2. Monica Hogan, Interim Executive Director, Office of Data & Accountability at 617-635-9450 (phone) 617-635-941 (fax) rc069@bostonpublicschools.org (e-mail) 3. Maria Vieira, Office of Exam Schools & AWC.

1. In the SY20 Budget (Exhibit A) if there is a "one year only" suspension of the MAP test, how will the \$364,000 budgeted for the SY20 annual exam school administration be spent? How will that budget line for exam administration move to SY2021? Which office "owns" that number?

Request 1 seeks an answer to a question rather than records. The public records law applies only

to records.

2. On October 21, 6:21 PM, Chief Monica Robert's and Monica Hogan of BPS's Office of Accountability and Data cited "simulations run" (sic) regarding how zip code rounds would be allocated (Exhibit B - Slide titled: Misinformation: Limited Access to each exam school, bullet points 2-4), which are the factual studies/statistical tabulations used as the basis to support the BPS School Committee's new exam school policy position ("BPS Simulation Model"). Please provide the input data used in preparing these simulations in an Excel sheet. Please provide an electronic copy of the BPS Simulation Model (eg: Excel, SPSS, etc).

BPS is still working on this portion of your request.

a. Please provide 3 years of counts of applicants, invited, and enrolled students for each exam school, grouped by the following data attributes:

- i. Zip code*
- ii. Race*
- iii. GPA - if simulation GPA approach differs from*
- iv. Applicant exam school preference choice*
- v. Applicant invited school*
- vi. Applicant enrollment*

b. Please provide the following attributes per zip code:

- i. Number of school aged children in each zip code*
- ii. Number of children in the 6th, 8th , and 9th grade in each zip code*
- iii. Median income in the each zip code*
- iv. Median income in the each zip code for families with children under the age of 18*

Records responsive to request 2a may be found [here](#). Please note that the data provided is a data set responsive to similar requests. BPS has not created a data set specifically for this request.

Records responsive to request 2b may be found [here](#).

c. Please provide the approach to convert report card into the GPA used in this simulation.

Records responsive to request 2c may be found [here](#).

i. How do letter grades and number grades convert to GPA?

ii. Which class names count as ELA? Which class names count as Math?

iii. If there are multiple ELA classes, how is a single ELA GPA created (eg: weighted average, simple average, min, max)? If there are multiple math classes, how is a single math GPA created (eg: weighted average, simple average, min, max)?

iv. Which grading period is used? If there are multiple grading periods how is a single GPA calculated (eg: weighted average, simple average, min, max, earliest, latest)?

v. *In response to the discussion that different schools may have different grading standards, please provide the count of students with each calculated GPA, by applicant school and by race for the past 3 years. Exhibit D is a template for providing this requested information.*

vi. *Did this calculation change from the GPA that was previously used in the exam school entrance criteria? If so please provide the above responses for the prior approach, the new approach, and any other approaches that were simulated.*

Requests 2ci, ii, iii, iv & vi seek answers to questions rather than records. The public records law applies only to records. Request 2cv is addressed by the response to requests 2a and 2b.

d. *If a student was in the top 20% but placed in a school other than their first choice, will they have an opportunity to be reconsidered for their first choice in the 80% zip code rounds? If so what will happen to that zip code's seat in that 80% round, will it be given to another applicant in the zip code?*

Request 2d seeks an answer to a question rather than records. The public records law applies only to records.

e. *How many seats are available per school, and in the first 20% how many of those seats at each school were assigned to students from each zip code in the BPS Simulation Model.*

The number of invitations sent varies year to year, based on space available. For SY20-21 admissions in 7th grade, 484 invitations were sent for BLS (20% = 97); 336 were sent for BLA (20% = 67); 205 were sent for O'Bryant (20% = 41).

f. *For the 80% allocated by zip code, before 10 the rounds start, is there a finite number of allocated seats at each school for each zip code? Or when each student's spot comes up in the zip code rounds, do they get their highest preference from any school with an available seat?*

Request 2f seeks an answer to a question rather than records. The public records law applies only to records.

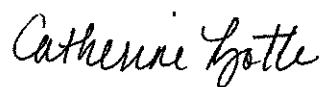
g. *What happens in the zip code rounds for a zip code that has such a small number of school-aged children that it qualifies for under 1 seat?*

Request 2g seeks an answer to a question rather than records. The public records law applies only to records.

Conclusion

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G.L. c. 66, § 10A (c); G.L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,

A handwritten signature in black ink that reads "Catherine Lizotte". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Catherine Lizotte

Legal Advisor

(617) 635-9250

clizotte@bostonpublicschools.org

ATTACHMENT R

7/4/2021

Boston Public Schools Mail - Fwd: Request for Public Records



Lizotte, Catherine <clizotte@bostonpublicschools.org>

Fwd: Request for Public Records

2 messages

Catherine Lizotte <catherine.lizotte@boston.gov>

Fri, Feb 12, 2021 at 2:43 PM

To: clizotte@bostonpublicschools.org

**Catherine Lizotte**

Senior Assistant Corporation Counsel
 City of Boston Law Department
 Boston City Hall, Room 615
 Boston, MA 02201
 617-635-3215
 catherine.lizotte@boston.gov

The information contained in this electronic transmission ("e-mail"), including any attachment (the "Information"), may be confidential or otherwise exempt from disclosure. It is for the addressee only. ***This Information may be privileged and confidential attorney work-product or a privileged and confidential attorney-client communication.*** The Information may also be deliberative and pre-decisional in nature. As such, it is for internal use only. The Information may not be disclosed without the prior written consent of the Corporation Counsel of the City of Boston. If you have received this e-mail by mistake, please notify the sender and delete it from your system. Please do not copy or forward it. Thank you for your cooperation.

----- Forwarded message -----

From: **BPCA MA** <bpcama@gmail.com>

Date: Fri, Feb 12, 2021 at 12:47 PM

Subject: Request for Public Records

To: Public Records <publicrecords@boston.gov>

Cc: Shawn Williams <shawn.williams@boston.gov>, <pre@sec.state.ma.us>, <catherine.lizotte@boston.gov>

Friday, February 12, 2021

Shawn Williams, Director of Public Records

Records Access Officer

City of Boston

1 CITY HALL SQUARE

ROOM 615

BOSTON, MA 02201

617-635-4037

shawn.williams@boston.gov

7/4/2021

Boston Public Schools Mail - Fwd: Request for Public Records

publicrecords@boston.gov

Dear RCO Williams:

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10). We are requesting that we be provided a copy of the following records:

Please provide the total number of applicants sorted by zip code for the current Fall 2021 Boston Exam Schools Admissions cycle.

To expedite the process, specific people from BPS departments who may retain our requested records are listed below:

1. Monica Roberts, Chief of Student, Family & Community Advancement
2. Monica Hogan, Interim Executive Director, Office of Data & Accountability at 617-635-9450 (phone) 617-635-941 (fax) rc069@bostonpublicschools.org (e-mail)
3. Maria Vieira, Office of Exam Schools & AWC

We recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request.

The Public Records Law requires you to provide us with a written response within 10 business days. If you cannot comply with our request, you are statutorily required to provide an explanation in writing. Otherwise, we look forward to receiving a written response with our requested record by Thursday, February 25, 2021.

Regards

Boston Parent Coalition for Academic Excellence ("BPCAE")

bpcama@gmail.com
617-903-2468

Lizotte, Catherine <clizotte@bostonpublicschools.org>

Fri, Feb 12, 2021 at 2:53 PM

To: Monica Hogan <mhogan2@bostonpublicschools.org>, Monica Roberts <mroberts@bostonpublicschools.org>

Cc: "McCarley, Devon" <dmccarley@bostonpublicschools.org>, Jonathan Palumbo <jpalumbo@bostonpublicschools.org>

Hi all,

A new request. This group also just requested transcripts of the October 8th and 21st SC meetings today and they have a GoFundMe page to raise \$20K.

[Quoted text hidden]

--

Catherine Lizotte
Legal Advisor
Office of the Legal Advisor | Boston Public Schools
2300 Washington Street, Boston MA 02119
clizotte@bostonpublicschools.org | 617-635-9250

The information contained in this electronic transmission ("e-mail"), including any attachment ("Information"), may be confidential or otherwise exempt from disclosure. It is for the addressee only. This information may be privileged and confidential attorney work-product or a privileged and confidential attorney-client communication. The information may also be deliberative in nature. As such, it is for internal use only. If you have received this e-mail by mistake, please notify the sender and delete it from your system. Please do not copy or forward it. Thank you for your cooperation.

ATTACHMENT S

Subject: City of Boston Public Records Office City Public Records Request :: R000279-021221
Body:



BOSTON PUBLIC SCHOOLS OFFICE OF LEGAL ADVISOR

Martin J. Walsh, Mayor

03/22/2021

RE: PUBLIC RECORDS REQUEST of February 12, 2021, Reference # R000279-021221

Dear Boston Parent Coalition for Academic Excellence:

The Boston Public Schools (City) submits this response to your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Specifically, you stated:

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2. Monica Hogan, Interim Executive Director, Office of Data & Accountability at 617-635-9450 (phone) 617-635-941 (fax)
 rc069@bostonpublicschools.org (e-mail)

3. Maria Vieira, Office of Exam Schools & AWC

We recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request.

The Public Records Law requires you to provide us with a written response within 10 business days. If you cannot comply with our request, you are statutorily required to provide an explanation in writing. Otherwise, we look forward to receiving a written response with our requested record by Thursday, February 25, 2021.

Regards

Boston Parent Coalition for Academic Excellence ("BPCA")

bpcama@gmail.com
 617-903-2468

A record does not exist that is responsive to your request. Please note that the public records law does not require a municipal agency to create a record in response to a request.

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,

Catherine Lytle

7/4/21, 10:03 PM

Legal Advisor
Boston Public Schools

ATTACHMENT T

Wednesday, June 23, 2021

Shawn Williams, Director of Public Records
Records Access Officer
City of Boston
1 CITY HALL SQUARE
ROOM 615
BOSTON, MA 02201
617-635-4037
shawn.williams@boston.gov
publicrecords@boston.gov

Dear RCO Williams:

This is a request under the Massachusetts Public Records Law (M. G. L. Chapter 66, Section 10). We are requesting that we be provided a copy of each record pertinent to your responses to the inquiries as in the Appendix.

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To expedite the process, specific people from above mentioned departments who may retain our requested records are listed below:

1. Monica Roberts, Chief of Student, Family & Community Advancement
2. Monica Hogan, Interim Executive Director, Office of Data & Accountability at 617-635-9450 (phone) 617-635-941 (fax) rc069@bostonpublicschools.org (e-mail)
3. Maria Viera, Office of Exam Schools & AWC

We recognize that you may charge reasonable costs for copies, as well as for personnel time needed to comply with this request.

The Public Records Law requires you to provide me with a written response within 10 business days. If you cannot comply with my request, you are statutorily required to provide an explanation in writing. Otherwise, we look forward to receiving a written response with our requested record by July 3, 2021.

Regards

Boston Parent Coalition for Academic Excellence ("BPCAE")

bpcaema@gmail.com
617-903-2468

Appendix

BPCAE requests production of all documents (excluding personally identifying information) concerning the data base and selection process the City of Boston used in the most recent SY 21-22 admissions cycle for the BPS exam schools namely: Boston Latin School, Boston Latin Academy, John D O'Bryant School of Math and Science.

This request explicitly includes, but is not limited to the following:

1. For each student in the 53# Invites in the DCF/ Homeless pool, documents concerning:
 - a. Each student's Grade Point of Average.
 - b. Each student's MCAS scores (ELA and Math).
 - c. Each student's Zip Code residency as of the application date.
 - d. Each student's city-wide ranking.
 - e. Each student's race / ethnicity.
2. Documents concerning the written criteria to be admitted to the DCF/ Homeless pool of applicants.
3. Documents concerning the authorizing person who approved the applicants for the DCF/Homeless pool.
4. For each individual Zip Code, documents concerning:
 - a. The Grade Point Averages and MCAS scores (ELA and Math) for all Invited and all Uninvited applicants to the Exam Schools.
 - b. The city-wide ranking determined by BPS for all Invited and all Uninvited applicants to the Exam Schools.
 - c. The zip-code rank determined by BPS for all Invited and all Uninvited applicants to the Exam Schools
 - d. The race/ ethnicity of each Invited and each Uninvited applicant to the Exam Schools.
5. Documents sufficient to provide a detailed description/ flow chart of the Exam School Admissions process including the role of the third-party vendor.
6. Documents sufficient to identify the third-party vendor who reviewed and approved the lottery and the admissions process, including but not limited to documents concerning the contract signed between BPS and the vendor, and documents showing the total amount paid to the vendor.
7. Documents concerning any competitive bid process related to the contract for the third-party vendor, including but not limited to documents concerning the other vendors who submitted bids , and all documents concerning those bids.
8. All documents concerning the lottery process, including but not limited to how it was conducted, whether there were same GPA for multiple applicants, who authorized and

approved the results of lottery, were there multiple rounds of the lottery done, and the best round chosen or was the lottery done only once.

- 9.** All text messages exchanged between and/or among Student representative Khymani James and each and every member of Boston School Committee and with each and every member of the Task force during the October-8, 2020 meeting and October-21, 2020 meeting.
- 10.** All text messages exchanged between and/or among Superintendent Brenda Cassellius and each and every member of Boston School Committee and with each and every member of Task force during the October-8, 2020 meeting and October-21, 2020 meeting.
- 11.** All text messages exchanged between and/or among Mayor Marty Walsh and each and every member of Boston School Committee and with each and every member of Task force during the October-8, 2020 meeting and October-21, 2020 meeting.
- 12.** All text messages exchanged between or among Boston School Committee members and each and every Task Force member during the October-8, 2020 and October-21, 2020 meeting.
- 13.** All Zoom chat messages (public and private messages) between and/or among any and all Boston School committee members including the student representative Khymani James and each and every Task force member during the October-8, 2020 and October-21, 2020 meeting.
- 14.** Documents concerning the GPA for every applicant towards the SY 21-22 exam schools and their exam school preferences.

ATTACHMENT U

Kay Hodge

From: Stein, Callan G. <Callan.Stein@Troutman.com>
Sent: Wednesday, June 16, 2021 2:12 PM
To: Kay Hodge; John Simon
Cc: Hurd, William H.; Carlson, Chris W.; Metcalfe, Mary Grace
Subject: City of Boston Case
Attachments: Public_Records_Request_(R000876-102720)_-_Responsive_Text_Messages_-_Response_Date_11.5.20_-_Google_Docs.pdf; Response_to_D._Murphy_Request_3.9.21.pdf

Dear Kay and John:

I hope you have been well and are enjoying the summer weather.

I am writing to the two of you (and initially only the two of you) about the recent news that revealed that there were and are additional text messages by Boston School Committee members during the October 21 Boston School Committee meeting where the current Boston Exam School admission process was adopted that, though directly relevant to the matter at issue and responsive to our client's FOIA requests, were withheld by the City of Boston.

I specifically reference the FOIA requests that were made to the City of Boston Public Schools, and to which Attorney Lizotte responded on March 9, 2021. A copy of that response is attached for your convenience. Request #1 requests "ALL electronic text messages", among other things, sent or received by the school committee members. Ms. Lizotte's response states that all such records were produced. We have now learned that was not the case.

Compounding this problem are the further representations that you made, presumably at your clients' direction, to us and to the Court including in the Joint Statement of Facts that the text messages produced were "true and accurate" transcripts (Par. 67). Once again, we now know that the transcribed text messages were not true and accurate insofar as they omitted critical, responsive information.

The text messages that have recently come to light – and which, as you know, have resulted in two more resignations from the school committee – are directly relevant to this matter, and are materials that the District Court and the First Circuit should have considered. Moreover, had we been properly told that the City of Boston's FOIA response was not complete and that certain text messages had been withheld, we never would have agreed to proceed on the agreed upon record at the District Court level.

Upon this foundation, we have several questions/requests of you and your client to which we would appreciate urgent and immediate attention. They are:

1. Why were these text messages withheld from production in response to the FOIA request and during the District Court proceedings?
2. Why did your clients misrepresent to us and the District Court that the text message transcripts provided were "true and accurate" when they knew that was not the case?
3. What other information, texts or otherwise, has the City of Boston withheld?

Finally, and I think this goes without saying, it is incumbent upon the City of Boston to immediately update its previously sent, and incorrect, FOIA response – and in doing so include the improperly withheld text messages as well as any other information that should have been produced – and to correct its deliberate misrepresentation to the District Court. This is something that your client should have done without our requesting it, and I would ask that it do so immediately.

If you would like to discuss this, please let me know.

Callan G. Stein

Partner

Direct: 617.204.5103 | Internal: 815-5103

callan.stein@troutman.com

troutman pepper

19th Floor, High Street Tower, 125 High Street

Boston, MA 02110-2736

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A HIGHER COMMITMENT TO CLIENT CARE

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BOSTON PUBLIC SCHOOLS
OFFICE OF LEGAL ADVISOR
Martin J. Walsh, Mayor

3/9/21

RE: PUBLIC RECORDS REQUEST of February 23, 2021

Reference #:

#R000337-022321

Dear Ms. Murphy:

The City of Boston (City) has received your request for public records. This response applies only to records that exist and are in the custody of the City. See A Guide to the Massachusetts Public Records Law, p. 32, n.115. It is expected that a custodian of records must use her superior knowledge of her records with respect to responses to public records requests. 950 CMR 32.04(5). Below, please find your specific requests and BPS's responses in blue.

- 1. Copies of ALL electronic text messages, instant messages, and any other form of electronic communication sent and/or received, including any and all "group" messages sent and/or received by more than one of the following listed individuals, during the School Committee meeting scheduled for October 21, 2020, from the time the meeting started on 10/21/2020 until it was officially adjourned on Thursday, October 22, 2020, between and among each and all of the following: Superintendent Brenda Cassellius SC Chair Michael Loconto SC Members: Lorna Rivera Jeri Robinson Michael O'Neil Alexandra Oliver-Davila Hardin LK Coleman Quoc Tran.*

Records responsive to request 1 may be found [here](#).

- 2. List of students who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School), de-identified and sorted by GPA.*

There are no records responsive to request 2.

3. *All of the Grade Point Averages sorted by Zip Code of the students, de-identified, who currently comprise the applicant pool for incoming school year 2021/2022 for the three exam schools (Boston Latin School, Boston Latin Academy, John D O'Bryant School). Please provide the list by zip code. For example: Zip Code 02122: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02122. Zip Code 02126: List all the GPA's of the de-identified students currently comprising the applicant pool who reside in Zip Code 02126. And so on until every Zip Code in the City of Boston is included in the response, including Zip Codes for which there are no applicants in the pool and Zip Codes in which there are fewer than 10.*

There are no records responsive to request 3.

4. *Written transcript of the entire School Committee meeting held on October 21, 2020 which adjourned on Thursday, October 22, 2020.*

There are no records responsive to request 4.


5. *Written transcript of the entire School Committee meeting held on October 8, 2020.*

There are no records responsive to request 5.

Conclusion

You may appeal this response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G.L. c. 66, § 10A (c); G.L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). You may also appeal to the Superior Court. 950 CMR 32.06(3)(c).

Sincerely,



Catherine Lizotte
Legal Advisor
(617) 635-9250

(Text messages presented in italics)

Transcription of Text Messages Responsive to Public Records Request (R000876-102720)

Wednesday, October 21, 2020

5:46 p.m.

"SA" and Lorna Rivera (LR)

SA - Lorna, as a member of the Exam School Working Group, thanks for your support. *Mil gracias licenciada.*

LR - *Your efforts made this possible! Mil gracias!*

SA - *A la orden siempre, Lorna.*

LR - *Iguamente! (emoji smiley face)*

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

AOD - *Sure! Hi by law Chair sets agenda and we can't vote on anything Superintendent hasn't had a chance to respond to. He suggest talking to ML and asking him to add to the agenda for next time. We have 170 people speaking tonight so honestly this is probably not the best time to do it even if we could.*

LR - *Ok wow 170!?! I don't know if I will be able to stay awake. I am too old for this job.*

LR - *Hi I calculated 170 people *3=510/60 min=8.5 hours. Is this for real? Can't we end at a certain time? Are we allowed to take breaks? I am sorry to complain.*

AOD - *Yup it's real. 2 min each but will be a very long mtg*

AOD - *I think take breaks as you need them.*

AOD - *Best sc meeting ever I am trying not to cry*

LR - *Me too!*

LR - *Why can't we get interpretation/translation right? Why does language access have to be so hard?*

AOD - *When I was on the meeting that explained the proposed policy people got to choose to go into a room to get the whole meeting translated - at least that is how I understood it*

LR - *Should I ask Dr. C what the heck?*

AOD - *Sure you can text her.*

[time?]

Lorna Rivera (LR) and Brenda Cassellius (BC)

(Text messages presented in italics)

LR - Hi why is interpretation a continuing problem for some of our communities? I hope we can improve.

BC - We had Cantonese and I just asked Monica. This is the purview out the Committee. I suggested to Monica that if we have over a certain number of participants that we automatically default to all 10 languages but I think to provide it for SC it requires them to request it. Maybe bring it up to Mike.

BC - I can change for my team though!

LR - I will. I know there is so much going on. I really do appreciate your hardwork!

BC - [screenshot of Gchat from staff member that reads, "I believe SC only requests interpreters for public comment based on who signs up for public comment. It would be good to revisit that decision."]

LR - Thanks!

[time?]

Lorna Rivera (LR) and Alexandra Oliver-Davila (AOD)

[time?]

AOD - I still stand by my statement.

LR - I said BPS students should get preference and stand by this.

AOD - Oh then it was both of us!

AOD - What did I just miss? Was that ML saying Shannana and booboo??? My ADD is killing me here!

LR - I think he was making fun of the Chinese names! Hot mic!!!

AOD - That's what I thought. Omfg he's gonna get killed someone is going to go back and capture that

LR - I almost laughed out loud. Getting giddy here!

Someone already captured Brenda on cell in twitter (!)?

AOD - I've been getting some funny tweets tonight it's hard not to smile or laugh.

Yikes.

LR -Dios mia!!

AOD - No comment

LR - People tweeting about loconto hot mic!!

Anissa said WTF!

AOD- Oh no! It's gonna be ugly

(Text messages presented in italics)

LR - Someone texted me Loconto should resign, but I don't have them in my contacts

AOD - Oh boy How/where do I look on Twitter - sorry I'm old I'm not good at twitter

LR - Send me your handle and I will forward some

Or look up Anissa tweets

AOD - Alexoliver 33

Do we acknowledge the apology? What do we do??

LR - Did you see some of the tweets? I feel bad for loconto. Is he going to resign??

AOD - I feel bad too because he really was the person who pushed this forward with the Mayor

Idk if he will do it or not

AOD - I am not going to interrupt (?) him! Let him have his time. He needs it.

LR - Trying to redeem himself - [winking emoji]

Good night!

AOD - Good night.

LR - Good morning, actually!

Wednesday, October 21, 2020

10:34 p.m.

Lorna Rivera (LR) and Michael Loconto (ML)

LR - Hi can you tell me how many more people left to testify? I couldn't find the spreadsheet in google

ML - 77 to go, many falling off

[time?]

LR - Hi can you tell me if angie camacho is on the list and what number?

ML - yes she is #168, we are on 145

LR - Thanks.

[time?]

Michael Loconto (ML) and Alexandra Oliver-Davila (AOD)

ML- Do I need to worry about my non-sequitur earlier? I feel awful, I've been getting texts about it from Michael and Brenda.

(Text messages presented in italics)

AOD - *I heard [end] and not whole thing. I think Anissa commented on it. I think be prepared just in case I'm sorry this all stinks!*

ML - *Ugh*

Jeez

On twitter?

AOD - *I know.*

I'm sorry.

Yes.

ML - *Oh God no*

I don't know what to do

AOD - *I think just again apologize. What does MO suggest?*

ML - *Asking*

AOD - *I think that was good*

ML - *Jesus I am mortified*

AOD - *I know I'm very sorry*

Do you want me to acknowledge your apology and say thanks or just leave it alone?

ML - *I don't know*

Wednesday, October 21, 2020

6:00 p.m.

"Marty" [Boston Mayor Marty Walsh] (MW) and Jeri Robinson (JR)

MW - *Good luck*

JR - *Glad we're remote. Lots of passion. Wish there was as much passion and concern for the rest of our 52,000 students and 122 schools and not just the select three.*

Marty - *I agree with you.*

[time?]

Jeri Robinson (JR) and Alexandra Oliver-Davila (AOD)

JR - *Yes*

6:27 p.m.

(Text messages presented in italics)

AOD – What a great (unclear) totally trying not to cry, best meeting ever.

JR – So true. So proud of the Mayor

AOD – Me too, but we need to push because he said it was one year in his comments – we should call him and thank him so he knows where we stand.

JR – True. I did text and thank him at the conclusion of his remarks.

AOD – That's great.

6:53 p.m.

Sonia Barney Gomez (SBG), Josette Williams (JR) and Jeri Robinson (JR)

SBG – Jeri how excited I'm for you. This is like doing the impossible. Waiting for the vote.

JR – Yes. Amazing what can happen during a pandemic. There are over 800 folks watching. Wish there was as much concern about all of our kids and schools.

SBG – Yes. Baby steps. I believe this is historic. I'm hoping community partners come in to support students to make sure our students succeed

JW – I'm holding on. Either way, folks are really showing their true colors!!! This city is never ready for real change but time has come.

SBG – I just told Monica we need to start scheduling our community meetings to make sure we have parent voices to [unclear] the changes permanent for next year.

10:05 p.m.

Jeri Robinson (JR) and Michael Loconto (ML)

JR – what number are we up to?

ML – 84. People starting to drop off now.

11:00 p.m.

“SA” and Jeri Robinson (JR)

SA – How are you holding out Jeri. Looking pretty tired...

JR – I am. We still have about 70 speakers.

SA – that's 2 plus hours by my reckoning.

JR – Tulane [sic?] without our vote, so about 2 am.

JR – Some folks are dropping off, let's hope more do.

(Text messages presented in italics)

Wednesday, October 21, 2020

[time?]

Alexandra Oliver-Davila (AOD) and Brenda Cassellius (BC)

AOD - *Best meeting ever. Trying not to cry. What a great letter.*

BC - *Yup. I asked him to write it and I asked Tanisha to read it. Powerful.*

AOD - *Great idea!*

6:28 p.m.

BC - *Speak it.*

AOD - *Amen!*

Wednesday, October 21, 2020

5:27 p.m.

Michael O'Neill (MON) and Michael Loconto (ML)

MON - *You should mention Khymani was on the national student panel last week.*

ML - *[thumbs up emoji]*

MON - *He was excellent and made us BPS Proud.*

ML - *[thumbs up emoji]*

[time?]

MON - *What the heck was your last comment/your mic was on. Hope you were talking to your daughter about a bedtime book. Sha boo. Boo boo boo?*

ML - *Geez I'm sorry I was talking to my wife about a kid's book*

MON - *Thought so, but it came out real weird!*

ML - *Should I address?*

MON - *You did it right.*

ML - *I'm mortified if someone took it another way, Brenda mentioned it too and said someone else texted her about it*

MON - *It was right after Liz read a bunch of names, could have been interpreted that you were commenting on the names. I knew you would never do that, assumed one of your daughters was saying good night. Glad you cleared it up right away. Don't worry about it any more.*

(Text messages presented in italics)

MON - *How far along are we?*

ML - *Ok thanks. I realized that after I got the text. I feel awful.*

ML - *We are on 159. 20 to go.*

MON - *You corrected very quickly. Regular watchers know your daughters always say goodnight to you.*

ML - *Anissa tweeting about it. I don't know what to do*

ML - *Am I ok? I hope I put that to bed.*

MON - *Please put me last, before VC and you, but after the other members.*

ML - *Of course, assumed as much.*

MON - *Let's vote!*

6 43 p.m.

Michael O'Neill (MON) and Khymani James (KJ) (student member)

KJ - *Are you comfortable on the logistics behind transferring elementary school grades to letter grades? I'm confused on that part and don't want to ask publicly if I can get a behind the scenes answer.*

MON - *I suggested last week and will suggest again tonight they bring in a 3rd party to oversee/work with BPS on the process. They do have a method to convert BPS grades to a 12 point system, based on the specific 1-4 grades in certain subjects. They have had to do it for years as GPA is already 50% of the criteria. But I would prefer independent oversight to build trust.*

KJ - *Ahhh I see*

Thursday, October 22, 2020

12 29 a.m.

MON - *Well done. Very well done.*

KJ - *Thank you, Mr. O'Neill.*

Wednesday, October 21, 2020

Michael O'Neill (MON) and Brenda Cassellius (BC)

11 31 p.m.

BC - *Yikes.*

Thursday, October 22, 2020

1 47 a.m.

(Text messages presented in italics)

BC - Remember I talked about that in my interview.

MON - (thumbs up sign)

BC - Thank you.

MON - (thumbs up sign)

MON - Congrats.

Wednesday, October 21, 2020

6:19 p.m.

Khymani James (KJ) and Alexandra Oliver-Davila (AOD)

AOD - Great points. Thank you for message to fellow students. Sooo important!

KJ - Thank you, Ms. Oliver-Davila!!!

AOD - You are welcome! Keep asking your great questions!

KJ - Quick question. Is what is being voted on tonight called a "proposal" or a "policy"

AOD - proposed policy

KJ - Thank you!

AOD - Sure!

11:19 p.m.

KJ - Wow -I had to turn my camera off because of my facials.

AOD - That's a great strategy!

AOD - You are a trooper staying late!

KJ - Thanks Vice Chair. Trying my best to pull through!

AOD - Also you can leave! Everyone will understand because you have school tomorrow - past BSAC members have left around 9 pm

KJ - Yes, I am aware! Thank you - I told myself at the beginning of the year that I would attend all hours of the meeting since they're so important and only every other week.

AOD - You are a trooper! Hope your teachers give you a break on Thursday mornings

KJ - Me too! [smiling emoji]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BOSTON PARENT COALITION FOR
ACADEMIC EXCELLENCE CORP.,

Plaintiff,

v.

THE SCHOOL COMMITTEE OF THE CITY
OF BOSTON, ALEXANDRA OLIVER-
DAVILA, MICHAEL O'NEILL, HARDIN
COLEMAN, LORNA RIVERA, JERI
ROBINSON, QUOC TRAN, ERNANI
DeARAUJO, and BRENDA CASSELLIUS,

Defendants,

Civil Action No. 1:21-cv-10330-WGY

and

COUNSEL FOR THE BOSTON BRANCH
OF THE NAACP, GREATER BOSTON
LATINO NETWORK, ASIAN PACIFIC
ISLANDER CIVIC ACTION NETWORK,
ASIAN AMERICAN RESOURCE
WORKSHOP, MAIRENY PIMENTEL, and
H.D,

Intervenors.

AFFIDAVIT OF HENRY C. LUTHIN

I, Henry C. Luthin, do hereby state and depose as follows:

1. I am the Corporation Counsel for the City of Boston. From 2008 to March 8, 2021, I was First Assistant Corporation Counsel for Government Services (First Assistant), one of the two First Assistants in the Law Department. At the time I was First Assistant, I worked on various issues, among them issues relating to public records.

2. Following the meeting of the Boston School Committee on October 21-22, 2020, the School Department received, on the evening of October 22, the following public records request from James Vaznis of the Boston Globe:

Under the state's public records law and the state's open meeting law, I am seeking copies of all cellular telephone text messages and emails related to BPS issues that were sent and received by each Boston School Committee member during their meeting that began on Oct. 21 and that ended on Oct. 22. This request applies to all members who sat on the committee for the Oct. 21 meeting, including then-Chair Michael Loconto.

3. I conferred with Attorney Catherine Lizotte, Legal Advisor to the Boston Public Schools, and Attorney Shawn Williams, Director of Public Records on a response within the parameters of the Public Records Law, M.G.L. C. 66, § 10(a) and M.G. L. C. 4, § 7(26).

4. Text messages responsive to Mr. Vaznis' request were transcribed and those portions dealing with BPS issues were provided to him.

Sworn under the pains and penalties of perjury this 6th day of July, 2021


Henry C. Luthin

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BOSTON PARENT COALITION FOR
ACADEMIC EXCELLENCE CORP.,

Plaintiff,

v.

THE SCHOOL COMMITTEE OF THE CITY
OF BOSTON, ALEXANDRA OLIVER-
DAVILA, MICHAEL O'NEILL, HARDIN
COLEMAN, LORNA RIVERA, JERI
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and

COUNSEL FOR THE BOSTON BRANCH
OF THE NAACP, GREATER BOSTON
LATINO NETWORK, ASIAN PACIFIC
ISLANDER CIVIC ACTION NETWORK,
ASIAN AMERICAN RESOURCE
WORKSHOP, MAIRENY PIMENTEL, and
H.D,

Intervenors.

AFFIDAVIT OF SHAWN A. WILLIAMS

I, Shawn A. Williams, do hereby state and depose as follows:

1. I am an attorney and a member in good standing of the Massachusetts bar.

2. I am the Director of Public Records and Records Access Officer for the City of Boston. As an attorney, I report to the Corporation Counsel for the City of Boston. I have been employed in this capacity since January 2017.

3. Prior to my employment with the City of Boston, I was employed as an attorney in the Public Records Division of the Secretary of the Commonwealth, from 2006 until December of 2016. In that capacity, I worked initially as a Staff Attorney, later as Assistant Director of Public Records, and eventually as Supervisor of Public Records and Director of the Public Records Division.

4. In my current capacity, I assist all City of Boston departments on issues associated with requests for City department records pursuant to the Massachusetts public records law and its access regulations. G. L. c. 4, § 7 (26); 950 C.M.R. 32.00. I provide legal advice, assist with collection and disclosure of records, negotiate, draft, and provide written responses to such requests.

5. Under Massachusetts law, a department is not required to provide responses through me or through my department. Similarly, requesters are not required to submit a request through me or my department. City departments seek my assistance but those departments may also provide responses on their own.

6. My role is as an advisor; the department is ultimately responsible for decisions associated with producing what it deems to be responsive and public. I provide my opinion as to what may be responsive and public, but the decision is ultimately that of the department.

7. Some City departments use the City's Law Department for legal advice, and some departments possess an internal legal staff of their own. The Boston Public Schools is one such department and employs attorneys under the Boston Public Schools Office of the Legal Advisor. Cathy Lizotte is the Legal Advisor for the Boston Public Schools.

8. The Office of the Legal Advisor for the Boston Public Schools is also part of the City of Boston Law Department.

9. To assist in the management of public records requests the City uses a platform called Govqa. A requester may file a request through the City's website at [https://bostonma.govqa.us/WEBAPP/rs/\(S\(1lrirkzwohhd5wmnd1w43e2b\)\)/supporthome.aspx](https://bostonma.govqa.us/WEBAPP/rs/(S(1lrirkzwohhd5wmnd1w43e2b))/supporthome.aspx). A requester may also make a written request by mail, email, or a facsimile. Requests are entered into the Govqa platform, and a sequential reference number is assigned to the request. The Govqa platform calculates time up to the tenth business day, as the Massachusetts law requires a response within ten business days. Requests entered into the platform are tracked, and a history of all internal and external activity is recorded. The platform permits communication between myself, requesters, my department, and other City departments to monitor the status of requests.

10. Under Massachusetts law a public record is defined as follows:

“Twenty-sixth, “Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32, unless such materials or data fall within [one of the enumerated exemptions]. G. L. c. 4., § 7 (26)

11. For the year ending December 31, 2020, the City's Govqa system indicates that 3,253 public records requests were filed. Approximately 60 requests were filed specifically for records from the Boston Public Schools.

12. Requests for records that include text messages are not common.

13. A records custodian is expected to use their superior knowledge of the records in responding to a request. *See A Guide to the Massachusetts Public Records Law*, Accessed July 6, 2021. <https://www.sec.state.ma.us/pre/prepdf/guide.pdf>

14. The Boston Public Schools used its superior knowledge to provide records it deemed to be “made or received” by members of the Boston School Committee (“board”) in each member’s capacity as a member of that board.

15. Under Massachusetts law, an aggrieved person may appeal a response to the Supervisor of Records in the Office of the Secretary of the Commonwealth. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h) (in petitioning the Supervisor, the requester shall provide a copy of such petition to the records access officer associated with such petition). An aggrieved person may also appeal to the Superior Court. 950 CMR 32.06(3)(c). Mr. Vaznis and Ms. Murphy were both advised of this remedy in their respective responses.

16. Both requesters, along with several others, filed renewed requests for the records in the spring of 2021.

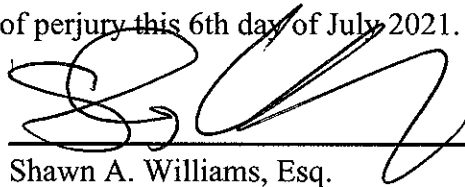
17. Both requesters were provided with new responses from the City of Boston on June 18, 2021. The new responses included a cover letter, copies of all of the screenshots of text messages provided to the Boston Public Schools by the members of the School Committee, the transcription and approximately 150 related emails. The cover letter to each requester is attached as Exhibit 1 without the screen shots, transcription or emails. I have reviewed the text messages included with Darragh Murphy’s affidavit and confirm that those are the screen shots of text messages provided on June 18, 2021.

18. It is my understanding that as of the date of this affidavit all responsive records have been provided.

19. To the best of my knowledge, neither Mr. Vaznis nor Ms. Murphy filed a petition with the Supervisor of Public Records regarding the substance of either response. Mr. Vaznis did

file a petition for failure to timely respond in June 2021, but this appeal was closed when the City of Boston provided responsive records. See *SPR21/1509 Determination of the Supervisor of Records* (June 29, 2021) (“In light of the supplemental response provided by the City, I will now consider this administrative appeal closed. Mr. Vaznis may further appeal the substantive nature of the City’s supplemental response within ninety (90) days.”).

Sworn under the pains and penalties of perjury this 6th day of July 2021.



Shawn A. Williams, Esq.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BOSTON PARENT COALITION FOR
ACADEMIC EXCELLENCE CORP.,

Plaintiff,

v.

THE SCHOOL COMMITTEE OF THE CITY
OF BOSTON, ALEXANDRA OLIVER-
DAVILA, MICHAEL O'NEILL, HARDIN
COLEMAN, LORNA RIVERA, JERI
ROBINSON, QUOC TRAN, ERNANI
DeARAUJO, and BRENDA CASSELLIUS,

Defendants,

Civil Action No. 1:21-cv-10330-WGY

and

COUNSEL FOR THE BOSTON BRANCH
OF THE NAACP, GREATER BOSTON
LATINO NETWORK, ASIAN PACIFIC
ISLANDER CIVIC ACTION NETWORK,
ASIAN AMERICAN RESOURCE
WORKSHOP, MAIRENY PIMENTEL, and
H.D,


Intervenors.

AFFIDAVIT OF THOMAS H. COSTELLO

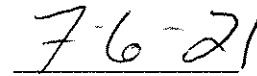
1. My name is Thomas Costello, and I am an attorney in good standing in the Commonwealth of Massachusetts.
2. I am an associate at the firm of Stoneman, Chandler & Miller, LLP.
3. The Boston Parent Coalition for Academic Excellence (BPCAE), filed a complaint against the Boston Public Schools (BPS), on or about February 26, 2021. The BPS hired Stoneman, Chandler & Miller, LLP, as counsel.

4. In March of 2021, I was tasked with researching the issue of standing relative to the BPCAE complaint. I conducted a search of the Secretary of the Commonwealth of Massachusetts database for corporate documents related to BPCAE.
5. The corporate documents that I found and reviewed are as follows: The Articles of Organization for the BPCAE; Business Entity Summary for the BPCAE; and Articles of Amendment for the BPCAE. Those documents are attached to my Affidavit as Exhibit A.
6. None of the corporate filings that I found and reviewed listed Darragh Murphy as a party to the BPCAE entity.

The above statement is true to the best of my knowledge and belief.

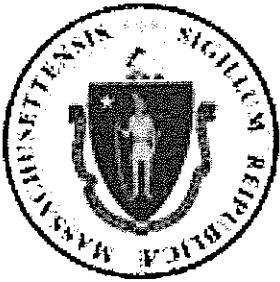
A handwritten signature in black ink, appearing to read "Thomas Costello", written over a horizontal line.

Thomas H. Costello

A handwritten date "7-6-21" in black ink, written over a horizontal line.

Date

EXHIBIT A



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$35.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Articles of Organization

(General Laws, Chapter 180)

Identification Number: 001471238

ARTICLE I

The exact name of the corporation is:

BQSTON PARENT COALITION FOR ACADEMIC EXCELLENCE CORP.

ARTICLE II

The purpose of the corporation is to engage in the following business activities:

TO MAINTAIN ACADEMIC EXCELLENCE AT THE EXAM SCHOOLS IN BOSTON AND PROMOTE EQUALITY AMONG BOSTON PUBLIC SCHOOLS BY ENHANCING K-6 EDUCATION FOUNDATION ACROSS ALL SCHOOLS IN BOSTON. THE CORPORATION IS ORGANIZED EXCLUSIVELY FOR EDUCATIONAL AND COMMUNITY PURPOSES CONSISTENT WITH THE REQUIREMENTS OF SECTION 501(C)(4) OF THE INTERNAL REVENUE CODE, AND ANY SUCCESSOR STATUTES, INCLUDING MAKING DISTRIBUTIONS CONSISTENT WITH THESE PURPOSES. IN PARTICULAR THE CORPORATION IS ORGANIZED TO PROMOTE EXCELLENCE IN EDUCATION IN BOSTON MASSACHUSETTS, WITH AN EMPHASIS ON BOSTON PUBLIC SCHOOLS, TO PROMOTE MERIT-BASED ADMISSIONS TO BOSTON EXAM SCHOOLS (INCLUDING BOSTON LATIN SCHOOL, BOSTON LATIN ACADEMY AND O'BRYANT SCHOOL OF SCIENCE AND MATH), AND TO PROMOTE DIVERSITY IN BOSTON HIGH SCHOOLS BY ENHANCING K-6 EDUCATION ACROSS ALL SCHOOLS IN BOSTON.

ARTICLE III

A corporation may have one or more classes of members. If it does, the designation of such classes, the manner of election or appointments, the duration of membership and the qualifications and rights, including voting rights, of the members of each class, may be set forth in the by-laws of the corporation or may be set forth below:

THE CORPORATION SHALL HAVE NO MEMBERS.

ARTICLE IV

Other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or members, or of any class of members, are as follows:

ARTICLE V

The by-laws of the corporation have been duly adopted and the initial directors, president, treasurer and clerk or other presiding, financial or recording officers, whose names are set out on the following page, have been duly elected.

ARTICLE VI

The effective date of organization of the corporation shall be the date approved and filed by the Secretary of the Commonwealth. If a *later* effective date is desired, specify such date which shall not be more than *thirty days* after the date of filing.

11/19/2020

ARTICLE VII

The information contained in Article VII is not a permanent part of the Articles of Organization.

a. The street address (post office boxes are not acceptable) of the principal office of the corporation in Massachusetts is:

No. and Street: BPCAE / BEN CUI
88 PARSONS ST
 City or Town: BRIGHTON State: MA Zip: 02135 Country: USA

b. The name, residential street address and post office address of each director and officer of the corporation is as follows:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	BENTAO CUI	88 PARSONS ST BRIGHTON, MA 02135 USA 88 PARSONS ST BRIGHTON, MA 02135 USA	TBD
TREASURER	LISA LIAO	46 GROUSE STREET WEST ROXBURY, MA 02132 USA 46 GROUSE STREET WEST ROXBURY, MA 02132 USA	TBD
VICE PRESIDENT	MAITHILY ERANDE	47 RICHWOOD ST. WEST ROXBURY, MA 02132 USA 47 RICHWOOD ST. WEST ROXBURY, MA 02132 USA	TBD
CLERK	PENG SUN	41 LILA ROAD JAMAICA PLAIN, MA 02130 USA 41 LILA ROAD JAMAICA PLAIN, MA 02130 USA	TBD
DIRECTOR	LEI TIAN	110 RUSSETT RD WEST ROXBURY, MA 02132 USA 110 RUSSETT RD WEST ROXBURY, MA 02132 USA	TBD
DIRECTOR	BRUCE MCKINNON	70 FAIROAKS LN, COHASSET, MA 02025 USA 70 FAIROAKS LN, COHASSET, MA 02025 USA	TBD
DIRECTOR	TAMAR SHAY TANNAS	70 PENFIELD ST. ROSLINDALE, MA 02131 USA 70 PENFIELD ST.	TBD

		BOSTON, MA 02124 USA 19 IRMA ST, #1, BOSTON, MA 02124 USA
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c. The fiscal year (i.e., tax year) of the business entity shall end on the last day of the month of:
 August

d. The name and business address of the resident agent, if any, of the business entity is:

Name: BPCAE / BEN CUI
 No. and Street: 88 PARSONS ST
 City or Town: BRIGHTON State: MA Zip: 02135 Country: USA

I/We, the below signed incorporator(s), do hereby certify under the pains and penalties of perjury that I/we have not been convicted of any crimes relating to alcohol or gaming within the past ten years. I/We do hereby further certify that to the best of my/our knowledge the above-named officers have not been similarly convicted. If so convicted, explain:

BENTAO CUI

IN WITNESS WHEREOF AND UNDER THE PAINS AND PENALTIES OF PERJURY, I/we, whose signature(s) appear below as incorporator(s) and whose name(s) and business or residential address (es) beneath each signature do hereby associate with the intention of forming this business entity under the provisions of General Law, Chapter 180 and do hereby sign these Articles of Organization as incorporator(s) this 19 Day of November, 2020. (If an existing corporation is acting as incorporator, type in the exact name of the business entity, the state or other jurisdiction where it was incorporated, the name of the person signing on behalf of said business entity and the title he/she holds or other authority by which such action is taken.)

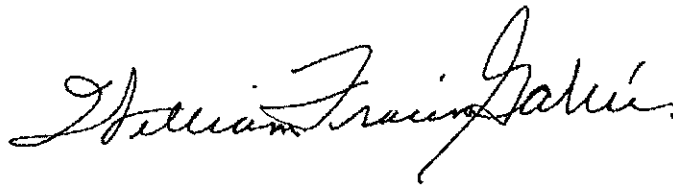
BENTAO CUI

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

November 19, 2020 12:55 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive, flowing style with a large initial 'W' and 'G'.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

Corporations Division

Business Entity Summary

ID Number: 001471238

[Request certificate](#)[New search](#)

Summary for: BOSTON PARENT COALITION FOR ACADEMIC EXCELLENCE CORP.

The exact name of the Nonprofit Corporation: BOSTON PARENT COALITION FOR ACADEMIC EXCELLENCE CORP.			
Entity type: Nonprofit Corporation			
Identification Number: 001471238			
Date of Organization in Massachusetts: 11-19-2020			
Last date certain:			
Current Fiscal Month/Day: 08/31			
The location of the Principal Office in Massachusetts: Address: BPCAE / BEN CUI 88 PARSONS ST City or town, State, Zip code, BRIGHTON, MA 02135 USA Country:			
The name and address of the Resident Agent: Name: BPCAE / BEN CUI Address: 88 PARSONS ST City or town, State, Zip code, BRIGHTON, MA 02135 USA Country:			
The Officers and Directors of the Corporation:			
Title	Individual Name	Address	Term expires
PRESIDENT	BENTAO CUI	88 PARSONS ST BRIGHTON, MA 02135 USA 88 PARSONS ST BRIGHTON, MA 02135 USA	TBD
TREASURER	LISA LIAO	46 GROUSE STREET WEST ROXBURY, MA 02132 USA 46 GROUSE STREET WEST ROXBURY, MA 02132 USA	TBD
VICE PRESIDENT	MAITHILY ERANDE	47 RICHWOOD ST. WEST ROXBURY, MA 02132 USA 47 RICHWOOD ST. WEST ROXBURY, MA 02132 USA	TBD
CLERK	PENG SUN	41 LILA ROAD JAMAICA PLAIN, MA 02130 USA 41 LILA ROAD JAMAICA PLAIN, MA 02130 USA	TBD
DIRECTOR	LEI TIAN	110 RUSSETT RD WEST ROXBURY, MA 02132 USA	TBD

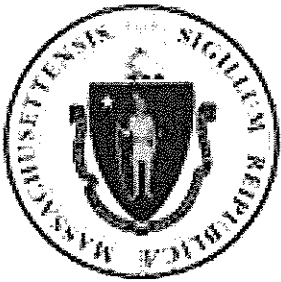
		110 RUSSETT RD WEST ROXBURY, MA 02132 USA	
DIRECTOR	BRUCE MCKINNON	70 FAIROAKS LN, COHASSET, MA 02025 USA 70 FAIROAKS LN, COHASSET, MA 02025 USA	TBD
DIRECTOR	TAMAR SHAY TANNAS	70 PENFIELD ST. ROSLINDALE, MA 02131 USA 70 PENFIELD ST. ROSLINDALE, MA 02131 USA	TBD
DIRECTOR	DANIEL FITZPATRICK	66 COLCHESTER ST. HYDE PARK, MA 02136 USA 66 COLCHESTER ST. HYDE PARK, MA 02136 USA	TBD
DIRECTOR	RACHEL MISELMAN	19 IRMA ST, #1, BOSTON, MA 02124 USA 19 IRMA ST, #1, BOSTON, MA 02124 USA	TBD

Consent	Confidential Data	Merger Allowed	Manufacturing
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View filings for this business entity:

ALL FILINGS
 Annual Report
 Application For Revival
 Articles of Amendment
 Articles of Consolidation - Foreign and Domestic
 Articles of Consolidation - Domestic and Foreign

[View filings](#)
Comments or notes associated with this business entity:[New search](#)



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$15.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Articles of Amendment

(General Laws, Chapter 180, Section 7)

Identification Number: 001471238

We, BENTAO CUI ☒ President ☐ Vice President,

and PENG SUN ☒ Clerk ☐ Assistant Clerk,

of BOSTON PARENT COALITION FOR ACADEMIC EXCELLENCE CORP.
located at: BPCAE / BEN CUI 88 PARSONS ST BRIGHTON, MA 02135 USA

do hereby certify that these Articles of Amendment affecting articles numbered:

☐ Article 1 ☐ Article 2 ☒ Article 3 ☐ Article 4

(Select those articles 1, 2, 3, and/or 4 that are being amended)

of the Articles of Organization were duly adopted at a meeting held on 2/7/2021, by vote of: 0 members, 5 directors, or 0 shareholders,
being at least two-thirds of its members/directors legally qualified to vote in meetings of the corporation (or, in the case of a corporation having capital stock, by the holders of at least two thirds of the capital stock having the right to vote therein):

ARTICLE I

The exact name of the corporation, **as amended**, is:
(Do not state Article I if it has not been amended.)

ARTICLE II

The purpose of the corporation, **as amended**, is to engage in the following business activities:
(Do not state Article II if it has not been amended.)

ARTICLE III

A corporation may have one or more classes of members. **As amended**, the designation of such classes, the manner of election or appointments, the duration of membership and the qualifications and rights, including voting rights, of the members of each class, may be set forth in the by-laws of the corporation or may be set forth below:

BOSTON PARENT COALITION FOR ACADEMIC EXCELLENCE CORP. A MASSACHUSETTS NO

ESIRES TO AMEND THE ARTICLES TO PROVIDE FOR ONE CLASS OF MEMBERS, WHOSE RIGHTS SHALL BE SET FORTH IN THE BY-LAWS OF THE CORPORATION (THE "BY-LAWS"); WHEREAS, PURSUANT TO SECTIONS 3 AND 7 OF CHAPTER 180 OF THE GENERAL LAWS OF THE COMMONWEALTH OF MASSACHUSETTS (THE "MGL"), WHERE THE CORPORATION HAS NO MEMBERS, THE VOTE OF AT LEAST TWO-THIRDS OF THE BOARD IS REQUIRED TO APPROVE AN AMENDMENT TO THE ARTICLES; AND WHEREAS, THE BOARD DEEMS IT ADVISABLE AND IN THE BEST INTEREST OF THE CORPORATION TO AMEND THE ARTICLES TO PROVIDE FOR ONE CLASS OF MEMBERS, TO APPROVE AND ADOPT THE ARTICLES OF AMENDMENT, SUBSTANTIALLY IN THE FORM ATTACHED HERETO AS EXHIBIT A (THE "AMENDMENT"), AND TO FILE THE AMENDMENT WITH THE SECRETARY OF THE COMMONWEALTH OF THE COMMONWEALTH OF MASSACHUSETTS. NOW, THEREFORE, BE IT HEREBY RESOLVED, THAT THE AMENDMENT OF THE ARTICLES TO PROVIDE FOR ONE CLASS OF MEMBERS AND THE AMENDMENT BE, AND EACH OF THEM HEREBY IS, AUTHORIZED, APPROVED AND ADOPTED IN ALL RESPECTS; AND BE IT FURTHER RESOLVED, THAT THE BOARD AND THE OFFICERS OF THE CORPORATION, INCLUDING, WITHOUT LIMITATION, THE PRESIDENT, VICE PRESIDENT, TREASURER, CLERK AND ANY AUTHORIZED OFFICERS OF THE CORPORATION (EACH, AN "OFFICER," AND COLLECTIVELY, THE "OFFICERS") BE, AND EACH OF THEM HEREBY IS, AUTHORIZED AND EMPOWERED TO EXECUTE AND FILE, FOR AND ON BEHALF OF THE CORPORATION, THE AMENDMENT (WITH SUCH CHANGES OR MODIFICATIONS NECESSARY FOR FILING PURPOSES) WITH THE SECRETARY OF THE COMMONWEALTH OF THE COMMONWEALTH OF MASSACHUSETTS AND TO TAKE SUCH OTHER ACTIONS AS MAY BE REQUIRED BY THE MGL IN CONNECTION THEREWITH; AND BE IT FURTHER RESOLVED, THAT, NOTWITHSTANDING THE FOREGOING RESOLUTIONS OR THE ADOPTION OF THE AMENDMENT BY THE CORPORATION, THE BOARD MAY, AT ANY TIME PRIOR TO THE FILING OF THE AMENDMENT WITH THE SECRETARY OF THE COMMONWEALTH OF THE COMMONWEALTH OF MASSACHUSETTS, TERMINATE THE PROPOSED AMENDMENT WITHOUT FURTHER ACTION OR NOTICE; AND BE IT ADOPTION OF BY-LAWS FURTHER RESOLVED, THAT THE BY-LAWS ATTACHED HERETO AS EXHIBIT B BE, AND THEY HEREBY ARE, APPROVED AND ADOPTED AS THE BY-LAWS OF THE CORPORATION, AND THAT THE CLERK OF THE CORPORATION BE, AND HE OR SHE HEREBY IS, INSTRUCTED TO CAUSE THE SAME TO BE INSERTED IN THE MINUTE BOOK OF THE CORPORATION; AND BE IT RATIFICATION OF ELECTION OF OFFICERS FURTHER RESOLVED, THAT THE ELECTION OF THE FOLLOWING INDIVIDUALS TO THE OFFICE SET FORTH OPPOSITE THEIR RESPECTIVE NAMES BE, AND IT HEREBY IS, APPROVED, RATIFIED AND CONFIRMED AND THAT THE FOLLOWING INDIVIDUALS SHALL SERVE IN SUCH OFFICES IN ACCORDANCE WITH THE BY-LAWS AND UNTIL THEIR SUCCESSORS ARE DULY ELECTED AND QUALIFIED OR UNTIL THEIR EARLIER DEATH, RESIGNATION OR REMOVAL: BENTAO CUI PRESIDENT LISA LIAO TREASURER AND DIRECTOR MAITHILY ERANDE VICE PRESIDENT PENG SUN CLERK AND DIRECTOR BRUCE MCKINNON DIRECTOR DANIEL FITZPATRICK DIRECTOR RACHEL MISELMAN DIRECTOR TAMAR SHAY-TANNAS DIRECTOR LEI TIAN DIRECTOR INCREASE IN SIZE OF THE BOARD WHEREAS, SECTION 4.1 OF THE BY-LAWS PROVIDES THAT THE BOARD SHALL FIX THE NUMBER OF DIRECTORS COMPRISING THE BOARD FROM TIME TO TIME; AND WHEREAS, THE BOARD WISHES TO INCREASE THE SIZE OF THE BOARD FROM FIVE (5) TO SEVEN (7) DIRECTORS. NOW, THEREFORE, BE IT HEREBY RESOLVED, THAT THE SIZE OF THE BOARD BE, AND IT HEREBY IS, INCREASED FROM FIVE (5) TO SEVEN (7) DIRECTORS. ELECTION OF NEW DIRECTORS WHEREAS, THE BOARD HAS DETERMINED THAT IT IS IN THE BEST INTEREST OF THE CORPORATION TO ELECT LISA LIAO, AND PENG SUN AS DIRECTORS TO FILL THE VACANCIES ON THE BOARD CREATED BY THE INCREASE IN THE SIZE OF THE BOARD; AND WHEREAS, PURSUANT TO SECTION 4.8 OF THE BY-LAWS, ANY VACANCY ON THE BOARD RESULTING FROM ENLARGEMENT OF THE BOARD MAY BE

ED OR UNTIL THEIR EARLIER DEATH, RESIGNATION, REMOVAL OR DISQUALIFICATION. RATIFICATION OF PRIOR ACTIONS FURTHER RESOLVED, THAT ALL ACTIONS TAKEN BY THE CORPORATION AND THE DIRECTORS AND OFFICERS OF THE CORPORATION, IN THEIR CAPACITY AS SUCH, PRIOR TO THE DATE HEREOF, INCLUDING, BUT NOT LIMITED TO, SUCH ACTIONS TAKEN IN CONNECTION WITH THE FORMATION OF THE CORPORATION AND THE FILING OF THE ARTICLES WITH THE SECRETARY OF THE COMMONWEALTH OF THE COMMONWEALTH OF MASSACHUSETTS BE, AND THEY HEREBY ARE, RATIFIED AND CONFIRMED IN ALL RESPECTS AS THE ACTS AND DEEDS OF THE CORPORATION.

ARTICLE IV

As amended, other lawful provisions, if any, for the conduct and regulation of the business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the business entity, or of its directors or members, or of any class of members, are as follows:
(If there are no provisions state "NONE")

The foregoing amendment(s) will become effective when these Articles of Amendment are filed in accordance with General Laws, Chapter 180, Section 7 unless these articles specify, in accordance with the vote adopting the amendment, a *later* effective date not more than *thirty days* after such filing, in which event the amendment will become effective on such later date.

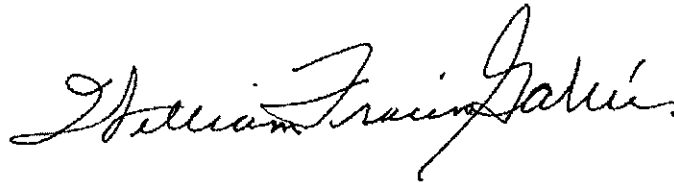
Later Effective Date:

Signed under the penalties of perjury, this 8 Day of February, 2021, BENTAO CUI, its , President / Vice President,
PENG SUN, Clerk / Assistant Clerk.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears
that the provisions of the General Laws relative to corporations have been complied with,
and I hereby approve said articles; and the filing fee having been paid, said articles are
deemed to have been filed with me on:

February 08, 2021 01:52 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive, flowing style with a large initial 'W'.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth