



The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division

Manza Arthur
Supervisor of Records

April 24, 2025
SPR25/1014

Ann Marie Carpenter
Director of Human Resources, Diversity and Inclusion
Pittsfield Public Schools
269 First Street
Pittsfield, MA 01201

Dear Ms. Carpenter:

I have received the petition of Ciara Batory appealing the response of the Pittsfield Public Schools (School) to a request for public records. See G. L. c. 66, § 10A; see also 950 C.M.R. 32.08(1). On April 1, 2025, Ms. Batory requested, "a copy of the PHS investigation report." The School responded on April 9, 2025. Unsatisfied with the School's response, Ms. Batory appealed, and this case, SPR25/1014, was opened as a result.

The Public Records Law

The Public Records Law strongly favors disclosure by creating a presumption that all governmental records are public records. G. L. c. 66, § 10A(d); 950 C.M.R. 32.03(4). "Public records" is broadly defined to include all documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption. G. L. c. 4, § 7(26).

It is the burden of the records custodian to demonstrate the application of an exemption in order to withhold a requested record. G. L. c. 66, § 10(b)(iv); 950 C.M.R. 32.06(3); see also Dist. Att'y for the Norfolk Dist. v. Flatley, 419 Mass. 507, 511 (1995) (custodian has the burden of establishing the applicability of an exemption). To meet the specificity requirement a custodian must not only cite an exemption, but must also state why the exemption applies to the withheld or redacted portion of the responsive record.

If there are any fees associated with a response, a written good faith estimate must be provided. G. L. c. 66, § 10(b)(viii); see also 950 C.M.R. 32.07(2). Once fees are paid, a records custodian must provide the responsive records.

Current Appeal

In her appeal, Ms. Batory states, “[w]hile I respect the need to protect sensitive personal information, I believe the report in question relates to matters of substantial public interest, including the conduct of public officials and the operations of a public school.” She further contends, “[t]he public has a right to transparency, especially when it involves accountability within taxpayer-funded institutions. I respectfully assert that any privacy concerns could be sufficiently addressed through targeted redaction, rather than complete withholding of the report.”

The School’s April 9th Response

In its April 9, 2025 response, the School claimed Exemptions (a) and (c) of the Public Records Law to withhold the responsive record in its entirety.

Exemption (a)

Exemption (a), known as the statutory exemption, permits the withholding of records that are:

specifically or by necessary implication exempted from disclosure by statute.

G. L. c. 4, § 7(26)(a).

A governmental entity may use the statutory exemption as a basis for withholding requested materials where the language of the exempting statute relied upon expressly or necessarily implies that the public’s right to inspect records under the Public Records Law is restricted. See Att’y Gen. v. Collector of Lynn, 377 Mass. 151, 54 (1979); Ottaway Newspapers, Inc. v. Appeals Court, 372 Mass. 539, 545-46 (1977).

This exemption creates two categories of exempt records. The first category includes records that are specifically exempt from disclosure by statute. Such statutes expressly state that such a record either “shall not be a public record,” “shall be kept confidential” or “shall not be subject to the disclosure provision of the Public Records Law.”

The second category under the exemption includes records deemed exempt under statute by necessary implication. Such statutes expressly limit the dissemination of particular records to a defined group of individuals or entities. A statute is not a basis for exemption if it merely lists individuals or entities to whom the records are to be provided; the statute must expressly limit access to the listed individuals or entities.

In its April 9th response, under Exemption (a), the School cites G. L. c. 214, § 1B and asserts, “[t] hose protected by this provision include not only the person who was the subject of BRG’s investigation, but also those whom BRG investigators spoke with who are named and quoted in the report.”

G. L. c. 214, § 1B

G. L. c. 214, § 1B, known as the Privacy Statute, provides:

A person shall have a right against unreasonable, substantial or serious interference with his privacy. The superior court shall have jurisdiction in equity to enforce such right and in connection therewith to award damages.

G. L. c. 214, § 1B.

The School is advised that G. L. c. 214, § 1B does not specifically, nor by implication, exempt any particular records from disclosure; therefore, this statute does not operate under Exemption (a) for the withholding of records or information responsive to this request. See Cape Cod Times v. Sheriff of Barnstable Cty., 443 Mass. 587, 595 (2005) (explaining G. L. c. 214, § 1B provides no alternative legal basis to resist inspection of requested materials). Consequently, this statute does not allow for the withholding of the responsive record.

Exemption (c)

Exemption (c) applies to:

personnel and medical files or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation

G. L. c. 4, § 7(26)(c).

Analysis under Exemption (c) is subjective in nature and requires a balancing of the public's right to know against the relevant privacy interests at stake. Torres v. Att'y Gen., 391 Mass. 1, 9 (1984); Att'y Gen. v. Assistant Comm'r of Real Prop. Dep't, 380 Mass. 623, 625 (1980). Therefore, determinations must be made on a case-by-case basis.

This exemption does not protect all data relating to specifically named individuals. Rather, there are factors to consider when assessing the weight of the privacy interest at stake: (1) whether disclosure would result in personal embarrassment to an individual of normal sensibilities; (2) whether the materials sought contain intimate details of a highly personal nature; and (3) whether the same information is available from other sources. See People for the Ethical Treatment of Animals (PETA) v. Dep't of Agric. Res., 477 Mass. 280, 292 (2017).

This exemption requires a balancing test, which provides that where the public interest in obtaining the requested information substantially outweighs the seriousness of any invasion of privacy, the private interest in preventing disclosure must yield. PETA, 477 Mass. at 291. The public has a recognized interest in knowing whether public servants are carrying out their duties in a law abiding and efficient manner. Id. at 292.

Under Exemption (c), the School stated the following in its April 9th response:

There are similar reasons for denial of your request that arise under M.G.L. c. 4 § 7(26)(c). That provision exempts, in pertinent part, "personnel and medical file or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an *unwarranted invasion of personal privacy*" (emphasis added).

The School has not met its burden to withhold the responsive record, in its entirety, pursuant to Exemption (c). Based on the School's response, it is uncertain how the record contains intimate details of a highly personal nature or how disclosure would result in personal embarrassment to an individual of normal sensibilities. It is additionally not clear from the School's response whether this information is available from other sources. The School must also provide information with respect to the balancing test, which examines whether the public interest in obtaining the requested information outweighs the seriousness of any invasion of privacy.

It is additionally uncertain how the record cannot be segregated and non-exempt portions provided. See Reinstein v. Police Comm'r of Boston, 378 Mass. 281, 289-90 (1979) (the statutory exemptions are narrowly construed and are not blanket in nature). The School must produce any non-exempt, segregable portions of the public records. G. L. c. 66, § 10(a). The School must clarify this matter.

Conclusion

Accordingly, the School is ordered to provide Ms. Batory with a response to her request, provided in a manner consistent with this order, the Public Records Law and its Regulations within ten (10) business days. A copy of any such response must be provided to this office. It is preferable to send an electronic copy of the response to this office at pre@sec.state.ma.us. Ms. Batory may appeal the substantive nature of the School's response within ninety (90) days. See 950 C.M.R. 32.08(1).

Sincerely,



Manza Arthur
Supervisor of Records

cc: Ciara Batory