

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Superior Court Department
Civil Action No.

LAWYERS FOR CIVIL RIGHTS, INC. and
MASSACHUSETTS ADVOCATES FOR
CHILDREN, INC.,
Plaintiffs,

v.

TOWN OF SAUGUS, SAUGUS PUBLIC
SCHOOLS, and SAUGUS SCHOOL
COMMITTEE,
Defendants.

VERIFIED COMPLAINT

1. The Plaintiffs are two civil rights organizations that seek public records concerning unlawful admissions and enrollment policies used by the Saugus Public Schools.
2. The student admission policy adopted by the Saugus School Committee in August 2023 unlawfully requires families to complete the Town Census before enrolling their children and includes other restrictive measures that disproportionately exclude immigrant schoolchildren from Saugus schools. The policy violates rights guaranteed to immigrant and mixed-status families under the United States Constitution and Massachusetts Declaration of Rights, as well as federal and state statutes prohibiting discrimination in public school admissions. Since the time that the Saugus School Committee enacted it, the policy has resulted in numerous harms to young children, including missed months of school, inability to secure adequate transportation to and from school, and other barriers to entry.
3. The Plaintiffs sent the Town of Saugus a public records request on May 24, 2024, seeking information concerning its student admission policy, including information about its

adoption, any amendments to the policy, and how it has been applied to date. In response, the Town provided only a single three-page document: the policy itself. The Town has failed to conduct an adequate search for the many other documents sought by the Plaintiffs and has failed to respond to the Plaintiffs' follow-up attempt to point the Town to other responsive documents that should be produced. The Plaintiffs therefore bring this suit under G. L. c. 66, § 10A (c), seeking declaratory and injunctive relief requiring the Defendants to comply with the Massachusetts Public Records Law ("PRL") by producing all requested documents without further delay.

Parties

4. Plaintiff Lawyers for Civil Rights, Inc. ("LCR") is a Massachusetts nonprofit corporation with a principal place of business at 61 Batterymarch Street 5th Floor, Boston, MA 02110.

5. Plaintiff Massachusetts Advocates for Children, Inc. ("MAC") is a Massachusetts nonprofit corporation with a principal place of business at 25 Kingston Street 2nd Floor, Boston, MA 02111.

6. Defendant Town of Saugus is a municipal corporation with an address at 298 Central Street, Saugus, MA 01906, and is located in Essex County. The Town is a custodian of the records Plaintiffs seek.

7. Defendant Saugus Public Schools is a department of the Town of Saugus with an address at 25 Dow Street, Saugus, MA 01906. Saugus Public Schools is a custodian of the records Plaintiffs seek.

8. Defendant Saugus School Committee is a department of the Town of Saugus with an address at 23 School Street, Saugus MA 01906. The School Committee is a custodian of the records Plaintiffs seek.

Jurisdiction and Venue

9. Jurisdiction and venue are proper in this Court pursuant to G. L. c. 66, § 10A (c).

Plaintiffs' Public Records Request

10. On May 24, 2024, the Plaintiffs sent a written a public records request (“Records Request”) under G. L. c. 66, § 10, to Christine Moreschi, the designated Primary Records Access Officer of the Town of Saugus.

11. A copy of the Records Request is attached as Exhibit A. The three categories of records the Plaintiffs requested, include, respectively:

- a) Records relating to Saugus Public Schools’ policies and procedures for determining that a child is eligible to be registered and attend Saugus Public Schools, including but not limited to any student admissions policy and/or student enrollment policy;
- b) Records relating to the implementation of the policies and procedures in Request #1;
- c) Records relating to proposed or actual revisions to the policies and procedures in Request #1.

12. On May 30, 2024, the Defendants responded to the Plaintiffs’ Records Request via e-mail. This email is attached as Exhibit B.

13. The Defendants produced a single document, a copy of the Student Admission Policy, purportedly adopted by the Saugus School Committee on August 10, 2023.

14. The Defendants failed to produce any other records relating to their enrollment policies, including any records relating to the implementation of the Student Admission Policy, any records relating to any policies that predate the Student Admission Policy, and any records relating to proposed or actual revisions to the Student Admission Policy. The Defendants also failed to provide a letter informing the Plaintiffs whether the Defendants intended to permit

inspection or furnish copies of the requested records, or whether the Defendants were withholding any records in response to the Records Request, in violation of G.L. c. 66, § 10(b).

15. By email on July 5, 2024, the Plaintiffs asked the Defendants to supplement their response. The Plaintiffs pointed out numerous additional documents that would be responsive to the Records Request, such as communications to parents or incoming families about the Student Admission Policy, any internal policies, a copy of the Town of Saugus Annual Town Census Form, agendas and supporting materials for the School Committee's meetings, meeting minutes, and any correspondence, emails, or texts by the School Committee members regarding the policy. This email is attached as Exhibit C.

16. The Plaintiffs requested a complete response within ten business days of receipt.

17. To date, the Defendants have not responded to that email or otherwise supplemented their incomplete May 30, 2024, production.

Claims for Relief

Count I: Violation of G.L. c. 66, § 10

18. The Plaintiffs incorporate by reference and reallege all of the allegations in the preceding paragraphs.

19. The PRL strongly favors disclosure by creating a presumption that all government records are public records. See G.L. c. 66, § 10A(d)(1)(iv).

20. Under the PRL, the Defendants were required to respond to the Plaintiffs' Records Request within ten business days, conduct an adequate search for responsive documents, and demonstrate the application of any exemption. See G.L. c. 66, 10(b).

21. The Defendants have custody of the public records requested by the Plaintiffs.

22. The Defendants failed to provide a timely or adequate response to the Plaintiffs' Records Request. After nearly four months, the Defendants have only provided one three-page document in response to the Plaintiffs' Records Request -- a document already available on the Saugus Public Schools' website.

23. On information and belief, the Defendants have failed to conduct an adequate search with regard to each part of the Plaintiffs' three-part Records Request.

24. The Defendants' refusal to produce the requested documents violates G.L. c. 66, § 10.

Count II: Declaratory Judgment

25. The Plaintiffs incorporate and reallege all of the allegations in the preceding paragraphs.

26. There is an actual controversy between the Plaintiffs and the Defendants regarding the production of requested records.

27. Pursuant to G.L. c. 231A and the PRL, Plaintiffs are entitled to a declaration that: (1) the records they requested are public records within the meaning of G. L. 66, § 10; (2) their release is required by law; and (3) the Defendants have no right to withhold such records.

Prayer for Relief

WHEREFORE, the Plaintiffs request that this Court:

1. Issue a declaratory judgment that the records the Plaintiffs have requested are public records within the meaning of G.L. c. 66, § 10, and that the Defendants have no right to withhold such records;

2. Enter a permanent injunction requiring the Defendants to disclose all of the records the Plaintiffs have requested;

3. If feasible, expedite the proceeding, pursuant to G.L. c. 66, § 10A(d)(1)(iii).

4. Award the Plaintiffs their costs and attorneys' fees in bringing this action, pursuant to G.L. c. 66, § 10A(d)(2); and

5. Grant such other relief as the Court deems just and proper.

By their attorneys,

/s/ Christina S. Marshall
Melissa C. Allison (BBO #657470)
mallison@andersonkreiger.com
Christina S. Marshall (BBO #688348)
cmarshall@andersonkreiger.com
Kristina Chemareva (BBO #713853)
kchemareva@andersonkreiger.com
ANDERSON & KREIGER LLP
50 Milk, 21st Floor
Boston, MA 02109
(617) 621-6500

Dated: September 18, 2024

VERIFICATION

I declare under the penalties of perjury that the factual allegations in this Complaint are true to the best of my knowledge.

/s/ Oren Sellstrom
Oren Sellstrom, Esq.
Lawyers for Civil Rights

EXHIBIT A

May 24, 2024

BY FIRST CLASS AND EMAIL (cmoreschi@saugus-ma.gov)

Christine Moreschi
Primary Records Access Officer
Town of Saugus, Massachusetts
298 Central Street
Saugus, MA 01906

Re: Public Records Request

Dear Ms. Moreschi:

This letter constitutes a request under the Public Records Law, G.L. c. 66, § 10, for public records in the custody of the Town of Saugus, the Saugus Public Schools, and/or the Town of Saugus School Committee. As used in this request, “record” and “records” are defined as in the Public Records Law. Unless otherwise specified, the period for which records are requested is January 1, 2020, to the present.

I hereby request copies of the following documents:

1. Any and all records relating to Saugus Public Schools’ policies and procedures for determining that a child is eligible to be registered and attend Saugus Public Schools, including but not limited to any student admissions policy or student enrollment policy.
2. Any and all records relating to the implementation of the policies and procedures in Request #1.
3. Any and all records, including emails, relating to proposed or actual revisions to the policies and procedures in Request #1.

As this request involves a matter of public concern, we ask that all fees associated with this request be waived pursuant to 950 C.M.R. 32.07(2)(k). The purpose of this request is to gain information about Saugus Public Schools’ Enrollment Policy, how it is implemented, and any proposed or actual changes to this policy over the last four years. This information will not be used for any commercial purpose. If the waiver is denied and you expect the fee to exceed \$10.00, please provide a detailed fee estimate.

The Public Records Law requires you to comply with this request within ten (10) days following receipt. If your response to any portion of this request is that any record or portion of it is not public, please set forth in writing the specific reasons for such denial, including which specific exemption you believe applies.

We can be reached at the contact information below with any questions or concerns regarding this request. Thank you for your time and attention.

Sincerely,

Erika Richmond Walton, Esq,
Lawyers for Civil Rights
erichmond@lawyersforcivilrights.org
(919) 808-2738

Diana Santiago, Esq.
Massachusetts Advocates for Children
dsantiago@massadvocates.org
(617) 874-5358

EXHIBIT B

From: Christine Moreschi <cmoreschi@saugus-ma.gov>
Subject: RE: [Probable Spam] Massachusetts Advocates for Children and
Lawyers for Civil Rights - Public Records Request
Date: May 30, 2024 at 12:28:46 PM ADT
To: Erika Richmond <erichmond@lawyersforcivilrights.org>
Cc: "Santiago, Diana" <dsantiago@massadvocates.org>

Good Morning Attorney Walton,

In response to your request on May 24, 2024, regarding Saugus Public Schools Policies and Procedures for determining that a child is eligible to be registered and attend Saugus Public Schools.. Please see the attached in response.

This is the current Student Admission Policy with the procedures. It was adopted by the Saugus School Committee on August 10, 2023.

Christine Moreschi



From: Erika Richmond <erichmond@lawyersforcivilrights.org>
Sent: Friday, May 24, 2024 2:52 PM
To: Christine Moreschi <cmoreschi@saugus-ma.gov>
Cc: Santiago, Diana <dsantiago@massadvocates.org>
Subject: [Probable Spam] Massachusetts Advocates for Children and Lawyers for Civil Rights - Public Records Request

You don't often get email from erichmond@lawyersforcivilrights.org. [Learn why this is important](#)

Dear Ms. Moreschi,

The attached letter is a request for public records in the custody of the Town of Saugus, the Saugus Public Schools, and/or the Town of Saugus School Committee. If you have any questions, we can be contacted via the contact information in the letter. Thank you for your time and attention to this matter.

Sincerely,

--

Erika Richmond Walton, Esq. (she/ella)

Litigation Fellow

Advancing Equality and Justice

Lawyers for Civil Rights

61 Batterymarch Street, 5th Floor

Boston, MA 02110

Tel 919 808 2738

www.lawyersforcivilrights.org



File: JF

Student Admission Policy

It is the policy of the Town of Saugus to require that all children who are registered and attend Saugus Public Schools, at the expense of the citizens of Saugus, be legal residents whose actual residence is in Saugus. "Residence" is defined as the place where a person dwells permanently, not temporarily, and is the place that is the center of his/her domestic, social and civic life. Home ownership or rental in Saugus, alone, is not sufficient to establish residency if the student does not actually reside in that dwelling. A temporary or part-time residence in Saugus, solely for the purpose of attending Saugus Public Schools shall not be considered residency.

The residence of a minor child is presumed to be the legal residence of the parent(s)/guardian(s) who have physical custody of the child. For students whose parents are divorced or separated and share physical custody of the child, the child may attend Saugus Public Schools only if he/she is a resident in Saugus during the school year. In those cases, the parent/guardian must produce a divorce decree, custody agreement, proof of guardianship and/or other documents to verify that the student is a resident of Saugus.

When a new student registers for school and lives with anyone other than a parent, the school department must receive a court document or documents demonstrating custody. A student who is a resident of a foreign country and enters the Saugus Public Schools under the provisions of the Foreign Student Exchange Program may attend in accordance with State and Federal Law. Students expelled or excluded from their previous school due to disciplinary violations under M.G.L. c. 71 , §37H(e) or §37H 1/2 may be either admitted to the Saugus Public Schools or provided educational services in an education service plan, under MTG.L. c. 71 , §76, at the Superintendent or his/her designee's discretion.

Families who move to Saugus must complete the Town of Saugus census (obtained at the Saugus Town Clerk's office) to be eligible to register their children in the school system. The Saugus Town Clerk will provide documentation that the census has been completed. Parents/guardians must produce that documentation at the time of registration.

In addition, when a new student is enrolled, his/her parent or guardian must produce a signed Residency Statement (Attachment A) and at least one document from each of the three categories in the following table at the time of registration. Individuals having difficulty producing the required documentation should contact the Superintendent.

Evidence of Residency	Evidence of Occupancy	Evidence of Identity
<ul style="list-style-type: none"> ● Record of mortgage payment made within the past 60 days ● Lease and/or Rental Agreement identifying address, and effective dates and signed by both parties ● Signed Landlord ● Affidavit (attachment B), ● Section 8 Agreement ● Property tax bill within the last year with name and address stated 	<ul style="list-style-type: none"> ● Utility (gas, oil, electric, home phone, cable, water) bill or work order dated within the past 60 days with name and address stated ● Pay stub with name and address stated ● Excise tax bill with name and address stated <p><i>Note: credit card and cell phone bills are not acceptable</i></p>	<ul style="list-style-type: none"> ● Valid MA driver's license ● Valid U.S. passport ● Valid MA Photo ID card ● Other government-issued photo ID

Saugus Public Schools reserves the right to request additional documentation to verify residency and guardianship of a child.

Should there be a question of residency, the Office of the Superintendent reserves the right to conduct an investigation. School officials will use reasonable discretion in deciding how to determine the circumstances of a child's residence. Because residency may change for students and their families during the course of an academic year, Saugus Public Schools may continue to verify residency. Changes of address MUST be reported to the Principal within ten (10) calendar days. Any student found to be in violation of the residency requirement will be removed from the Saugus Public Schools. Parent(s), guardian(s), or any other person(s) who violate or assist in violation of this policy by submitting false documentation, aiding, abetting or conspiring to admit a child as a student of Saugus Public Schools, shall be subject to all applicable criminal and civil penalties. Saugus Public Schools reserves the right to recover restitution based upon the costs of educational services provided during the period of non-residency, in accordance with M.G.L. c. 76,

If a student's family moves from Saugus during the school year, the student and his/her records, including immigration records required by law, shall be transferred immediately to the school in the city or town where they are residing. Should a move occur during the months of April, May or June, the parents or guardians may place a request in writing to the Superintendent of Schools to have their student(s) remain in Saugus for the completion of the academic year. If this request is granted, student transportation during the period of non-residency shall be the responsibility of the parents or guardians.

A student who is scheduled to graduate in June, and whose parents or guardians move from Saugus on or after July first of the student's senior year, may be allowed to complete his/her senior year in Saugus tuition-free. The written request should be forwarded to the Superintendent of Schools. Student transportation during the period of non-residency shall be the responsibility of the parents or guardian.

A student whose family is planning to move into Saugus may be granted provisional permission to enroll in the school system. Clear and documented evidence of intent to reside in Saugus, such as a signed purchase and sales agreement, must be presented. In cases where a new home is to be built, in addition to a purchase and sales agreement, parents may be required to produce a copy of a mortgage commitment letter to ensure that construction will occur or continue on schedule. The parents must document to the satisfaction of the Superintendent that they will be permanently residing in the district within sixty calendar days from the time the students would enter school. The acceptance of the student will be for sixty days. If the period expires and the student does not reside in the district, the parents will be informed that the student will no longer be entitled to attend school in Saugus and must be educated in the community in which the family resides. In exceptional circumstances, the Superintendent may grant an extension to the sixty-day time period. A copy of this policy shall be given to the parent or guardian at the time of registration of the student.

Prior to the Saugus Public Schools issuing a final decision that the student is not a resident of Saugus, the parent(s)/guardian(s)/student shall have the right to notice of the allegation or belief that the student is not a resident of Saugus, an explanation for the basis of that allegation, and an opportunity to present evidence in support of their position that the student resides in Saugus. The Superintendent, with input from legal counsel, shall make the final decision with respect to residency.

The residency requirements set forth herein do not apply to students who are entitled to attend Saugus Public Schools under the McKinney-Vento Act. Saugus Public Schools will comply with 603 CMR 28 with respect to special education students. No child who actually resides in Saugus will be denied access to school because of his or her immigration status or the immigration status of his or her parent(s)/guardian(s).

****This policy is intended to be in compliance with M.G.L. c. 71, §§37 and 37H^{1/2}, c. 76, 55; M.G.L. c. 71B, 603 CMR 28.00 et seq. and applicable Federal Law, including: the McKinney-Vento Act and the No Child Left Behind Act.***

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EXHIBIT C

July 5, 2024

Delivered electronically to cmoreschi@saugus-ma.gov

Christine Moreschi
Primary Records Access Officer
Town of Saugus, Massachusetts
298 Central Street
Saugus, MA 01906

Re: Follow-Up to May 24, 2024, Public Records Request

Dear Ms. Moreschi:

Thank you for sending the Student Enrollment Policy in response to our May 24, 2024, Public Records Request. However, because our previous request was broad, we believe that there may be additional documents that would also be responsive.

For example, our request for any and all records relating to the implementation of Saugus Public Schools' Student Enrollment Policy encompasses anything communicated to parents and/or incoming families about the policy (e.g., a registration packet and any related forms), any internal policies (e.g., communications to administrators or town officials stating the new enrollment policy would be effective as of August 2023), as well as a copy of the Town of Saugus Annual Town Census form.

Similarly, our request for any and all records, including emails, relating to proposed or actual revisions to the Student Enrollment Policy can include agendas and supporting materials for School Committee meetings prior to August 10, 2023, meeting minutes, and any correspondence, emails, or texts by School Committee members regarding the policy.

As such, we kindly ask that you supplement your response. Please respond within ten (10) business days of receipt. We can be reached at the contact information below with any questions or concerns regarding our request. Thank you again for your time and attention to this matter.

Sincerely,

Erika Richmond Walton, Esq.
Lawyers for Civil Rights
erichmond@lawyersforcivilrights.org
(919) 808-2738

Diana Santiago, Esq.
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