

BEFORE THE MISSISSIPPI ETHICS COMMISSION

SHERRY SHEPARD

COMPLAINANT

VS.

PUBLIC RECORDS CASE NO. R-22-057

**WEST BOLIVAR
CONSOLIDATED SCHOOL DISTRICT**

RESPONDENT

ORDER OF DISMISSAL

This matter came before the Commission through a Public Records Complaint filed by Sherry Shepard against the West Bolivar Consolidated School District (the “school district”). The school district filed a response by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. The hearing officer presented a Recommendation of Dismissal to the Ethics Commission at its regular meeting held on December 1, 2023, at which time the commission approved this Order of Dismissal in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 Sherry Shepard alleges that the West Bolivar Consolidated School District violated the Public Records Act by denying her November 25, 2022, public records request. Dr. Shepard submitted a request on the school district’s form requesting the following:

1. Any and all documents related to notices sent to anyone informing them they were not Allowed on any of the campuses of the West Boliver Consolidated School District, including its Buildings, grounds, and parking lots from July 1, 2021 to November 7, 2022.
2. WBCSD School Board Minutes from 11/4/2022 and any other minutes showing any Board action approving and/or ratifying Dr. Will Smith’s action taken in the November 7, 2022 certified letter to Dr. Shepard banning her from the WBCSD’s building, grounds, and/or parking lots.

1.2 On December 6, 2022, the district sent Dr. Shepard a letter stating that the total anticipated cost for the records is \$7.80.

1.3 In a supplement to her complaint, Dr. Shepard clarifies that her “reason for not picking up the documents after the December 6, 2022 notice had nothing to do with the assessed fees.” She states she did not retrieve the documents because she was advised by Ms. Taylor that Dr. Smith would not produce documents she sought. Dr. Shepard also provided videos she describes as “video evidence of the November 7, 2022 incident” where, after arriving at the West Bolivar Consolidated Central Office “to pay for and retrieve the PRR documents from a previous request,” the complainant was escorted off the property by the school resource officer. The videos provided by Dr. Shepard show her walking into the central office to ask questions about a \$69.00 search fee and \$20.00 for copies, seeking an itemization, and waiting in the lobby for about 20 minutes, until, off-camera, a police officer shows up to escort her off the grounds.

1.4 In response, the school district denies violating the Public Records Act. The school district states it timely provided Dr. Shepard an estimate for the records she requested and that she failed to pay the estimate, so that no responsive documents were provided. The school district also states that Dr. Shepard has a practice of harassing the district in an effort to undermine the day-to-day operations of the West Bolivar Consolidated School District.

II. CONCLUSIONS OF LAW

2.1 The Mississippi Public Records Act of 1983 (the “Act”) declares that public records shall be available for inspection or copying by any person unless otherwise provided by law and places a duty upon public bodies to provide access to such records. Section 25-61-2, Miss. Code of 1972. Section 25-61-5(1)(a) of the Act mandates that “[n]o public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record.” Section 25-61-5(1)(b) allows up to fourteen working days for production of public records when the public body provides a specific, written explanation why the records cannot be produced within seven days. Section 25-61-5(1)(b) also allows production of public records beyond fourteen (14) working days from the receipt by the public body of the original request upon “mutual agreement of the parties.”

2.2 The Ethics Commission recommends that after receiving a public records request, a public body should “[a]cknowledge that the public body has received the request and provide [in writing] a reasonable estimate of the time and costs it will require to fully respond, not to exceed fourteen working days.” Comment 4.3(4), Rule 4, Mississippi Model Public Records Rules. The Ethics Commission has noted that upon being presented with a reasonable estimate of actual costs, requestors may change the scope of their request, or decide to withdraw a request for public records. Processing requests prior to receiving a deposit can result in a public body incurring unnecessary costs which requestors do not intend to pay.

2.3 The evidence in this case shows that Dr. Shepard submitted her public records request on November 25, 2022. This was the Friday after Thanksgiving Day, which was a State Holiday, such that the earliest Dr. Shepard’s request can be deemed to have been received by the district is on November 28, 2022. As a result, the school district cannot be found to have violated the Public Records Act for providing an estimate on December 6, 2022, the sixth (6) working day after the school district received the request.

2.4 That Ms. Taylor may have indicated to Dr. Shepard that certain documents would be withheld from the documents produced by the school district is troubling, but her unofficial statements do not prove that any documents would be improperly withheld. Moreover, the videos provided by the complainant do not provide any evidence regarding Dr. Shepard’s November 25, 2022 request. Accordingly, the district did not violate the Public Records Act when it timely provided the complainant a reasonable estimate for documents responsive to her November 25, 2022 public records request.

WHEREFORE, the complaint is hereby dismissed this the 1st day of December 2023.

MISSISSIPPI ETHICS COMMISSION

BY: _____
TOM HOOD, Executive Director