

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

\_\_\_\_\_  
ANDREA JOY CAMPBELL,  
ATTORNEY GENERAL,

Plaintiff,

v.

MYSTIC VALLEY REGIONAL  
CHARTER SCHOOL,

Defendant.

COMPLAINT

COMPLAINT FOR DECLARATORY JUDGMENT

I. INTRODUCTION

1. This is an action for declaratory judgment brought by the Attorney General, Andrea Joy Campbell (the “Attorney General”), on behalf of the Commonwealth, pursuant to the Massachusetts Public Records Law, G.L. c. 66, §§ 10, 10A (the “Public Records Law”), and the Declaratory Judgment Act, G.L. c. 231A. The purpose of this declaratory judgment action is to confirm the Mystic Valley Regional Charter School’s (“MVRCS”) obligations under the Public Records Law and its obligation to respond to public records requests by Malden News Network (“MNN”), Commonwealth Transparency (“CT”), and Lissette Alvarado (“Alvarado”) (collectively, the “Requesters”).

2. The Attorney General is expressly vested with the authority to bring suit to enforce compliance with the Public Records Law. G.L. c. 66, § 10A(a), (e).

3. The Public Records Law is intended to ensure that the public has broad access to government records. Access to records is essential to promoting transparency and public

confidence in government, particularly with respect to matters involving public entities and public agents.

4. Between January and April 2022, MVRCS received the following public records requests: Malden News Network requested that MVRCS provide lease records, conflict of interest disclosures filed by MVRCS Board of Trustees, and “payments made to employees or professional services” during 2021 or 2022; Commonwealth Transparency requested records pertaining to persons or attorneys representing MVRCS and any emails from such persons; and Lissette Alvarado requested meeting packets distributed to the Board of Trustees, any “accounting of funds received from any granting agency,” as well as treasurer reports, balance sheets and financial reports.

5. Between September and November 2022, MVRCS received four additional public records requests from MNN for accounting and corporate statements, ledgers, agreements with and payments to a former principal, communications between MVRCS and the City of Malden, confidentiality and non-disclosure agreements, employment contracts, and correspondence with media outlets.

6. As to each of the requests, MVRCS declined to provide the requested records, claiming that it is exempt from Public Records Law because “as a Commonwealth Charter School, it does not fall under the category of entities handling public documents.”

7. The Requesters appealed to the Supervisor of Records (the “Supervisor”). After the School failed to comply with several orders issued by the Supervisor, the Supervisor referred the matter to the Attorney General “who, after consultation with the supervisor of records, may take whatever measures the [she] considers necessary to ensure compliance.” G.L. c. 66, § 10A(b).

8. By bringing this action, the Attorney General seeks a declaration that MVRCS is a custodian of public records, subject to the Public Records Law, and that it must respond to public records requests.

## **II. JURISDICTION AND VENUE**

9. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 66, §§ 10A(b), (e).

10. Venue is proper in this Court pursuant to G.L. c. 223, § 5.

## **III. PARTIES**

11. The Attorney General is the chief law enforcement officer of the Commonwealth and brings this action to enforce compliance with the Public Records Law pursuant to G.L. c. 66, § 10A and G.L. c. 12, § 3.

12. The Mystic Valley Regional Charter School has a principal place of business located at 4 Laurel Street, Malden, Massachusetts 02148.

13. This action is brought against MVRCS solely in its official capacity as the custodian of records sought by the Requesters.

## **IV. STATUTORY FRAMEWORK**

### **Mystic Valley Regional Charter School**

14. MVRCS is a charter school pursuant to G.L. 71, § 89. A charter school is a tuition-free “public school, operated under a charter granted by the [Board of Elementary and Secondary Education], which operates independently of a school committee and is managed by a board of trustees.” G.L. c. 71, § 89(c). “A charter school shall operate in accordance with its charter and the provisions of law regulating other public schools.” G.L. c. 71, § 89(s), (bb).

15. “The board of trustees of a charter school holds the charter of the school and governs the school[,]. ... [including] oversee[ing] the school's budget.” 603 Code Mass. Regs. § 1.06(1). The board of trustees “shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.” G.L. c. 71, § 89(c).

16. Charter schools are financed through local, state, and federal funds. A charter school receives “tuition payments [*i.e.*, funding] from each school district whose students attend the charter school.” 603 Code Mass. Regs. § 1.07(2).

### **The Public Records Law**

17. The Public Records Law defines “public records” as “all books, papers . . . 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, [or] department . . . of the commonwealth, or of any political subdivision thereof, . . . unless such materials or data fall within the following exemptions . . . .” G.L. c. 4, § 7, cl. 26.

18. The Public Records Regulations define “custodian” as “[a]ny governmental entity that makes or receives public records.” 950 CMR 32.02.

19. The Public Records Law provides that “[e]ach agency and municipality shall designate 1 or more employees as records access officers.” G.L. c. 66, § 6A(a). “A records access officer shall coordinate an agency’s or municipality’s response to requests for access to public records and shall facilitate the resolution of such requests by the timely and thorough production of public records.” *Id.* § 6A(b).

20. The “records access officer . . . shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record as defined in clause twenty-sixth of

section 7 of chapter 4, or any segregable portion of a public record, not later than 10 business days following the receipt of the request.” G.L. c. 66, § 10(a).

21. “If an agency or municipality refuses or fails to comply with an order issued by the supervisor of records, the supervisor of records may notify the attorney general who . . . may take whatever measures the attorney general considers necessary to ensure compliance.” G.L. c. 66 § 10A(b).

## V. FACTUAL ALLEGATIONS

### The Public Records Requests

#### *a. Malden News Network*

22. On or about January 18, 2022, Malden News Network made three separate public records requests for the following:

(1) Request for any records (in electronic form) related to Conflict of Interest disclosures by the MVRCS Board of Trustees or its employees. This would include records filed with DESE, or any mass.gov agency or department, by any employee of Mystic Valley Regional Charter School since 1/1/20.

Responsive records would include – but not limited to – any required “Disclosure of Financial Interest” filed annually by any member of the Board of Trustees for calendar years 2020-2022.

(2) Records (in electronic form) for payments made to employees or professional services (including advisors, lawyers, law firms, architects, engineering consultants, LLCs etc.) during the calendar year 2021 or 2022. Payment records should identify recipients and their mailing address with sufficient detail to verify existence of payment recipients.

(3) [R]ecords (in electronic form) related to any “Termination of Lease” associated with 28 Lebanon St., as referred to in the Closing Disclosure for transaction of 7/22/21.

More specifically, records sought related to section K, line 5, “Escrow to Thomas Brennan, Esq. for Termination of Lease Payment” and section N. line 15. “Termination of Lease payment as agreed (paid to Escrow-Brennan). Sought after records should include contracts, agreements, and related correspondence which identify the purpose, description, approval for any transaction associated with the \$200k escrow account held by Thomas Brennan, Esq. in relation to this transaction.

23. After MVRCS failed to respond, MNN appealed to the Supervisor on or about February 8, 2022.

24. The Supervisor issued a Determination dated February 23, 2022, ordering MVRCS to provide a “response to the request, provided in a manner consistent with [the Determination], the Public Records Law and its Regulations within 10 business days.”

25. In a letter dated February 24, 2022, MVRCS petitioned the Supervisor to reconsider its February 23, 2022, Determination, asserting that “a dangerous precedent could be set by allowing information to be gathered by unaccountable digital entities like Facebook pages.” In a letter dated March 15, 2022, the Supervisor declined to reverse her decision and ordered that MVRCS respond to MNN’s three public records requests.

*b. Commonwealth Transparency*

26. On or about February 25, 2022, Commonwealth Transparency made two separate public records requests for the following records:

(1) Any person(s) who work for, contract for or in any other way officially represent Mystic Valley Regional Charter (District); Any attorney representing the Mystic Valley Regional Charter (District) and (3) Mr. Neil Kinnon. Any email . . . from above appear in any of the address fields (To: Cc:, and/or Bcc: ) regardless of any additional recipients are considered responsive.

(2) Any and all electronic mail which include any person(s) representing Mystic Valley Regional Charter (District) and any person(s) from the Public Records Division of the Secretary of the Commonwealth of Massachusetts including but not limited to the supervisor of public records. The records sought specifically include but are not limited to any communications sent or received by any attorney representing the Mystic Valley Regional Charter (District) and any person(s) from the Public Records Division of the Secretary of the Commonwealth of Massachusetts including but not limited to the supervisor of public records.

27. In a letter dated March 15, 2022, MVRCS declared that it “is not responding to requests from internet addresses with no human signatories[,]” and until the Supervisor “indicates that [MVRCS] must respond to digital ephemera, [it] shall not.”

28. CT appealed MVRCS’s response to the Supervisor on or about March 16, 2022. In a letter dated March 31, 2022, the Supervisor, determined that, “The Public Records Law does not distinguish between requestors[,]” and that “[a] requester’s status will play no role in a determination as to whether the records should be disclosed or redacted under the Public Records Law.” She ordered MVRCS to provide a “response to the request, provided in a manner consistent with [the Determination], the Public Records Law and its Regulations within 10 business days.”

29. MVRCS responded to the Determinations issued by the Supervisor concerning the public records requests from MNN and CT in a letter dated April 4, 2022. It argued that it was exempt from the Public Records Law, because “as a Commonwealth Charter School, it does not fall under the categories of entities handling public documents.” MVRCS further stated that as a matter of policy it should not be required to produce records because “Requests for documents drain a school [like MVRCS] with very small administrative resources” and MVRCS already “publishes annual reports, adheres to the open meeting law, has various filings and is responsible to the [Department of Education] from which all official publications are available under the Massachusetts Public Records Law.” Because the records are “generally” available elsewhere, MVRCS states that records requests should be handled by larger entities, which “allows for a more balanced division of labor between overseer and educator of Children.” Therefore, MVRCS “will no longer be honoring [public records] requests.”

*c. Lissette Alvarado*

30. On or about April 1, 2022, Lissette Alvarado emailed MVRCS and made a public records request for the following:

(1) A copy of all “packets” of information distributed to the Board of Trustees in preparation for, during, or in follow-up to public meetings of the Board of Trustees from 1/1/20 to the present day.

(2) Any accounting of funds received from any granting agency (public or private), individual donors, or source funds (other than from DESE or rental of school property), from 1/1/20 to present day.

(3) A copy of all Treasurer Reports, Balance Sheets, and financial reports/statements delivered to any member of the Board of Trustees, including those prepared by MVRCS staff or auditors/accountants, from 1/1/21 to the present.

31. MVRCS responded via email to Alvarado, stating that it was “no longer responding to public records requests[,]” and attached a copy of its April 4, 2022, letter to the Supervisor. Alvarado appealed to the Supervisor on or about May 9, 2022. In a letter dated May 18, 2022, the Supervisor ordered MVRCS to respond to Alvarado’s request.

32. In an Order dated May 12, 2022, the Supervisor, pursuant to her authority under G.L. c. 66, § 10(a), determined that the Public Records Law applied to MVRCS. She ordered it to respond to public records requests by Malden News Network and Commonwealth Transparency.

33. MVRCS responded to the Supervisor in a letter dated May 24, 2022, stating again that it believes it is exempt from the Public Records Law.

34. In a second Order, dated June 9, 2022, the Supervisor ordered MVRCS to respond to each record request from Malden News Network, Commonwealth Transparency, and Lissette Alvarado requests.

35. After MVRCS failed to comply with the orders, on July 25, 2022, the Supervisor referred the matter to the Attorney General’s Office.



36. In a letter to MVRCS on October 20, 2022, the Attorney General agreed with the Supervisor, that the Public Records Law applied to MVRCS, and directed it to comply with the Supervisor's orders.

37. After not receiving any response from MVRCS, the Attorney General's office reached out to its counsel via telephone on November 16, 2022. MVRCS Counsel reiterated its position that MVRCS was not subject to the Public Records Law and that it would maintain this position until the Court decides otherwise.

38. Between September 8, 2022, and November 14, 2022, Malden News Network made four additional public records requests.

39. On or about September 8, 2022, MNN emailed MVRCS and requested the following:

(1) Suitable administrative or accounting records reflecting all PAYMENTS made to the City of Malden by MVRCS, related to MVRCS use of any public open space or public facilities in the City of Malden from 1/1/20 to the present day.

(2) A complete list of any PAYMENTS for all other purposes (e.g. permits related to building, electrical, fines, payments in lieu of taxes etc.) from 1/1/20 to the present day.

(3) Any DOCUMENTS, PDFs or other records which administratively record any current, or imagined memoranda of understanding or corporate or other commitment, including administrative AGREEMENTS - e.g. lease, rental agreement, promises, project plans, contract, permit, hourly billing invoices - for any use or benefit from public services in the City of Malden from 1/1/20 to the present day.

(4) A copy of any email, or other communications, between any representative (whether employee or designee) of MVRCS and of the City of Malden – this includes communications from outside the domain of mvcrs.com and would include personal email addresses, text messages, from any address or written/printed communication or report from 1/1/20 to the present day.

40. On or about October 6, 2022, MNN emailed MVCRS and requested the following:

(1) Account statements, ledgers, or reports which track debits and credits or deposits and withdrawals of any funds obtained from state, federal, city, for profit or non-profit funders from 1/1/21 to the present day.

(2) Any Corporate Statements, filings, reports, tax related advisories, and other records providing evidence that “Mystic Valley is a private corporation” from 1/1/21 to the present day.

(3) Any payments made to, or funds transferred from, any Educational Management Organization, Charter Management Organization or similar educational consultant, business management consultant or commonly recognized strategic or operational advisor from 1/1/21 to the present day.

(4) Any record of payments made directly or indirectly to Mr. Matthew Stone – including salary, bonus, living allowance, expense account, travel reimbursement, gifts, prepaid travel, credit card, or consulting fees from 1/1/21 to the present day.

(5) Any record or agreement, signed or in draft form, involving Mr. Matthew Stone and his anticipated departure from MVRCS, including records for continued collaborations or corporate agreements with him or through his commitments to any future employer from 1/1/21 to the present day.

41. On or about October 12, 2022, MNN emailed MVRCS and requested copies of the following records that “were requested, created, received or dismissed by” MVRCS from 1/1/20 to the present day:

(1) Confidentiality Agreements

(2) Non-disclosure Agreements

(3) NDAs

(4) Employment Contracts or Agreements

(5) Other documents, or evidence of agreements

(6) Any email sent or received in relation to any of these identified records.

42. On or about November 14, 2022, MNN emailed MVRCS and requested the following:

(1) Any and all email or other correspondence related to the BOSTON GLOBE – including between any MVCRS staffer, administrator, school representative, or

past or present Board of Trustees member and any reporter, journalist, editor or representative of BOSTONGLOBE.COM and any of its associate operations or publications from 1/1/21 to the present day.

(2) Any email other records or correspondence related to the school's lawyer Howard Cooper being quoted in the Boston Globe on 8/31/22.

(3) Any email or other records or correspondence related to the school's lawyer Howard Cooper being reference by TIME.COM in an article on 11/22/21.

(4) Any and all email or other correspondence and records related to TIME.COM – including between any MVCRS staffer, administrator, school representative, or past or present Board of Trustees member and any reporter, journalist, editor or representative of TIME.COM and any of its associate operations or publications from 1/1/21 to the present day.

(5) Any email or other records or correspondence related to the school's lawyer Howard Cooper being referenced by CBSNEWS.COM in an article first published on March 15, 2022.

(6) Any and all email or other correspondence and records related to CBSNEWS.COM – including between any MVCRS staffer, administrator, school representative, or past or present Board of Trustees member and any reporter, journalist, editor or representative of CBSNEWS.COM and any of its associate operations or publications from 1/1/21 to the present day.

(7) All financial/billing emails, communications, along with records of invoices and payments related to Attorney Howard Cooper or any legal firm or entity he may have submitted bills from or on behalf of from 1/1/17 to the present day.

43. MVRCS responded on September 8, 2022, and October 26, 2022, stating “Per advice from counsel and pursuant to our policy currently under appeal, we are not responding to public records requests at this time.”

44. MNN appealed to the Supervisor on or about November 30, 2022.

45. In Orders, dated December 15, 2022, the Supervisor ordered MVRCS to respond to the four record requests from MNN.

46. After MVRCS failed to comply with the orders, on April 28, 2023, the Supervisor referred the matter to the Attorney General's Office.

## **VI. CAUSES OF ACTION**

### **Count One: Violation of G.L. c. 66, § 10 (Public Records Law)**

1. The Commonwealth incorporates by reference the allegations set forth above as if fully contained herein.
2. MVRCS is refusing to respond to public records requests, asserting that it is exempt from G.L. c. 66, § 10.
3. MVRCS is a custodian of public records as defined in 950 C.M.R. 33.03.
4. MVRCS must respond to public records requests pursuant to G.L. c. 66, § 10.

## **VII. RELIEF REQUESTED**

WHEREFORE, the Commonwealth respectfully asks this Court to enter judgment:

- a. In favor of the Commonwealth and against MVRCS;
- b. Declaring that MVRCS is a custodian of public records and that it is not exempt from its obligations under G.L. c. 66, §§ 10, 10A;
- c. Awarding the Commonwealth such other and further relief as the Court deems just and proper.

Respectfully submitted,

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL



Date: July 31, 2023

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