



Written Testimony in Support of Proposed Bill SB 1153 Hearing on March 6, 2023

My name is Lauren Kurtz, and I'm the Executive Director of the Climate Science Legal Defense Fund. I submit the below testimony in support of SB 1153, which proposes protecting certain higher education records under the state Freedom of Information Act.

Open records laws have a vital role in government transparency but, in the specific realm of higher education, they also can be exploited by bad actors to harass and intimidate scientists and academics whose research they dislike. State open records laws were initially written long before the advent of email and sometimes even the founding of state universities; a number of states have recently amended their laws to protect academic freedom and to reduce the possibilities for abuse.

Since 2011, my organization has assisted dozens of climate and environmental researchers who have been targeted via open records laws. We've also [graded the research provisions of the open records laws of all 50 states and DC](#).¹ Connecticut's FOIA law has consistently gotten a "C," due to being vulnerable to misuse.

I'm personally a proud graduate of the Connecticut public school system, K through 12 – "C" is not a good grade, and Connecticut can do much better. In fact, many other Northeastern states – such as New Jersey, Pennsylvania, and Rhode Island – all have As or Bs, as do a number of other states around the country, from West Virginia to Utah. These states best protect researchers from harassment and attack, using clear statutory provisions without loopholes.

Some states, like Rhode Island and North Dakota, have also recently implemented reforms, prompted by the increasing and aggressive targeting of public university professors via open records laws. This is an issue that affects virtually all disciplines, from climate scientists to cattle researchers, in red and blue states alike.

The language of SB 1153 is also very similar to the laws that other states – including New Jersey, Georgia, Virginia, and South Carolina – have successfully had for many years.

Unfortunately, without safeguards in place, hostile groups frequently attempt to weaponize open records laws. Most commonly, these laws are manipulated in an attempt to trawl for "gotcha" emails potentially containing embarrassing private messages or academic jargon that can be taken out of context in order to confuse and mislead the public. Responding to open records inquiries

¹ "Research Protections in State Open Records Laws: An Analysis and Ranking," <https://www.csldf.org/resource/research-protections-in-state-open-records-laws-an-analysis-and-ranking/>



(which can cover decades of correspondence) consumes tens to hundreds, sometimes thousands, of hours of legal review by professors who would universally prefer to be doing research, while their universities simultaneously drown in legal fees that subtract from the public education budget. It's hard to blame the numerous scientists who – following experiences like this – leave public universities for other institutions, or exit research altogether.

There is no real downside to protecting researchers from open records abuse. Unlike the other sorts of government information generally revealed by public records laws, published academic work is already publicly available by the very dint of being published. Valid academic debate – whether over climate change, biomedicine, or any other field attracting controversy – should involve reviewing and replicating (or not) peer-reviewed, published work, and does not require the use of open records laws.

The proposed revision discussed today would spare Connecticut public university professors from the worst sorts of open records attacks, while still preserving important financial and administrative accountability. Notably, this proposed revision also reflects what some Connecticut courts have *already* found: that the public interest in protecting certain academic research records outweighs any benefit from releasing them.² Codifying this helps safeguard critical scientific research, protect academic freedom, and – last but not least – save real taxpayer money.

I find today's hearing very encouraging, and I urge the legislature to vote "yes" on this important bill.

² See, e.g., *Coalition to Save Horsebarn Hill v. Freedom of Information Commission*, 806 A.2d 1130 (Conn. App. Ct. 2002); *Wilson v. Freedom of Information Commission*, 435 A.2d 353 (Conn. 1980).